

INITIAL STATEMENT OF REASONS

These regulations implement Assembly Bill (AB) 1217 (Chapter 790, Statutes of 2013) Home Care Services Consumer Protection Act, herein known as “Act,” which promotes consumer protection for elderly and disabled individuals who hire private Home Care Aides to come into their homes and provide assistance with activities of daily living. AB 1217, added Chapter 13 to Division 2 of the Health and Safety Code, commencing with Section 1796.10. Section 1796.63 allows for the implementation of any reasonable rules, regulations, and standards as may be necessary or proper to carry out the purpose and intent of the Act. The Act was implemented because there were no laws regulating the licensure of home care services in California.

These regulations implement the Act, which requires licensing and regulation of Home Care Organizations, background checks for licensees, employees and volunteers of Home Care Organizations, background checks for Registered Home Care Aides, and maintenance of the Home Care Aide Registry. Prior to the passage of AB 1217, the home care services industry had not been regulated in California; Home Care Organizations were not required to be licensed, and Home Care Aides were not required to meet any state-level mandated minimum qualifications or screenings. However, as the state’s population continues to age, the demand for this program will continue to increase, and the need for health and safety measures for this population in these emergency regulations is crucial.

SB 855 (Chapter 29, Sections 30 through 63, Statutes of 2014) amended the Act. Section 1796.63(c) (SB 855 Section 62) was amended to give the California Department of Social Services (Department) the authority to adopt emergency regulations to implement and administer the provisions of the Act. It also allows the Department to readopt any emergency regulations that are the same as, or substantially equivalent to, any emergency regulations previously adopted. The initial adoption and re-adoption of emergency regulations for the implementation and administration of the Act pursuant to this subdivision shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

The Department has found these regulations neither inconsistent or incompatible with existing regulations because research was done by program to determine that these are non-duplicating and non-repetitive regulations, and do not negate or overlap other existing regulation or law. Further, these regulations are not duplicative of any federal law.

a. Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Sections 130000(a) and (b)

Specific Purpose:

These sections are adopted to clarify the purpose of the Home Care Services Consumer Protection Act, which is to promote consumer protection for elderly and disabled individuals who hire a Home Care Aide to come into their homes and provide assistance with activities of daily living. The Act requires the Department to license Home Care Organizations and to establish, maintain and continuously update a public registry of Registered Home Care Aides and Home Care Aide applicants.

Factual Basis:

These sections are adopted and are necessary because they introduce the Act and its purpose per Section 1796.10 et seq. of the Health and Safety Code and are authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130001(a)

Specific Purpose:

This section is adopted to clarify that unless otherwise specified by the Department, a Home Care Organization must maintain all personnel and administrative records in a hard copy format.

Factual Basis:

This section is adopted and is necessary for the Department to access and review information related to licensee, staff, volunteer, and Home Care Aide compliance as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(a)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Administrator.”

Factual Basis:

This section is adopted and is necessary to provide a definition of this term as it is used in these regulations. This section defines who the administrator is for purposes of management of a Home Care Organization, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(b)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Bona-fide Offer.”

Factual Basis:

This section is adopted and is necessary to provide a definition of what qualifies as a “bona-fide offer” between the buyer and the seller of a Home Care Organization, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(c)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Confidential Client Information.”

Factual Basis:

This section is adopted and is necessary to provide a definition of what specific information about a client is considered confidential for purposes of these regulations, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(c)(2)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Common Address.”

Factual Basis:

This section is adopted and is necessary to provide a definition of a common address that a Home Care Organization may use if all components of its business are conducted at a single site and owned and operated by the same licensee, even if there are separate buildings or containing different portions of the Home Care Organization on the site, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(c)(3)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Conditional License.”

Factual Basis:

This section is adopted and is necessary to provide a definition for a specific type of license, which is temporary, nonrenewable, and issued for a period not to exceed seven months, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(d)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Deficiency.”

Factual Basis:

This section is adopted and is necessary to provide a definition for any failure to comply with any provision of the Act and these regulations, as authorized by Section 1796.63(a) of the Health and Safety Code. The terms “deficiency” and “violation” may be used interchangeably.

#### Section 130003(d)(2)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Department Representative.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition that a duly authorized officer or agent of the Department is considered a “Department Representative,” as authorized by Section 1796.63(a) of the Health and Safety Code.

#### Section 130003(d)(3)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Designee.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition of the adult designated by the licensee to act on his or her behalf in the overall management of the Home Care Organization(s), or the suboffice, as authorized by Section 1796.63(a) of the Health and Safety Code.

#### Section 130003(e)(1)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Employee.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition of the staff of a Home Care Organization, and to specify that it does not include an Affiliated Home Care Aide in order to differentiate between the two because of different statutory requirements, as authorized by Section 1796.63(a) of the Health and Safety Code. The terms “employee” and “staff” may be used interchangeably.

Section 130003(e)(2)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Employee Dishonesty Bond.”

Factual Basis:

This section is adopted and is necessary to provide a definition of a Home Care Organization surety bond, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(e)(3)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Exception.”

Factual Basis:

This section is adopted and is necessary to provide a definition of a written authorization issued by the Department to use alternative means which meet the intent of a specific regulation and which are based on the unique needs or circumstances of a specific client or staff person, as authorized by Section 1796.63(a) of the Health and Safety Code. Exceptions are granted for a particular client or staff person and are not transferrable or applicable to any other client, staff person, Home Care Organization, or licensee.

Section 130003(f)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Facility.”

Factual Basis:

This section is adopted and is necessary to provide a definition of “facility” to include any facility licensed by the Department, operating under a valid, unexpired license, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(i)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Investigation.”

Factual Basis:

This section is adopted and is necessary to provide a definition of an inquiry by the Department based upon a complaint. It also explains with whom and how the inquiry will be accomplished, and who may be included in the inquiry and how the process will occur, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(i)(2)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Inspection.”

Factual Basis:

This section is adopted and is necessary to provide a definition of “inspection” to mean a site visit by a Department representative to the Home Care Organization to ensure compliance with applicable laws, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(l)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Licensee.”

Factual Basis:

This section is adopted and is necessary to provide a definition of who or what entity has the authority and responsibility for the operation of a licensed Home Care Organization, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(m)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Medical Professional.”

Factual Basis:

This section is adopted and is necessary to provide a definition of qualifying individuals who are licensed or certified in California to perform the necessary medical procedures within one’s scope of practice, including but not limited to Medical Doctor (MD), Registered Nurse (RN), and Licensed Vocation Nurse (LVN), as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(o)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Organization.”

Factual Basis:

This section is adopted and is necessary to specify that this term means the same as Home Care Organization and may be used interchangeably, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(p)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Pertinent Records.”

Factual Basis:

This section is adopted and is necessary to provide a definition of which records are required by the Department within these regulations, including but not limited to, administrative, personnel, and training records, as authorized by Section 1796.63(a) of the Health and Safety Code.



#### Section 130003(r)(1)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Registration Number.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition of the Department’s personnel identification number (PER ID), which is a unique identifier for a Registered Home Care Aide, as authorized by Section 1796.63(a) of the Health and Safety Code.

#### Section 130003(r)(2)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Responsible Person.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition of who is authorized by law to act on behalf of a client, as authorized by Section 1796.63(a) of the Health and Safety Code.

#### Section 130003(s)(1)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Serious Deficiency.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition of what constitutes an immediate or substantial threat to the physical health, mental health, or safety of the clients of a Home Care Organization, as authorized by Section 1796.63(a) of the Health and Safety Code.

#### Section 130003(s)(2)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Service Area.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition of a clearly delineated geographical area in which the Home Care Organization arranges for the provision of home care services, as authorized by Section 1796.63(a) of the Health and Safety Code.

#### Section 130003(s)(3)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Single Site.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition for when all components of the Home Care Organization are conducted at one location, owned and operated by the same licensee, even if there are separate at the location that all have a common mailing address, as authorized by Section 1796.63(a) of the Health and Safety Code.

#### Section 130003(s)(4)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Staff.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition of an employee of a Home Care Organization and to specify that it does not include an Affiliated Home Care Aide in order to differentiate between the two because of different statutory requirements, as authorized by Section 1796.63(a) of the Health and Safety Code. The terms “staff” and “employee” may be used interchangeably.

Section 130003(s)(5)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Suboffice.”

Factual Basis:

This section is adopted and is necessary to provide a definition of an office established and administered by a Home Care Organization for the purpose of providing Home Care Aide training and recruitment and/or the exchange of Home Care Aide personnel documents, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(s)(6)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Substantial Compliance.”

Factual Basis:

This section is adopted and is necessary to provide a definition of the absence of any serious deficiencies by a Home Care Organization, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130003(v)(1)

Specific Purpose:

This section is adopted for clarity to include a definition of the term “Violation.”

Factual Basis:

This section is adopted and is necessary to provide a definition of any failure to comply with any provision of the Act and applicable regulations adopted by the Department pursuant to the Act, as authorized by Section 1796.63(a) of the Health and Safety Code. The term “violation” has the same meaning as “deficiency” and can be used interchangeably.

#### Section 130003(w)(1)

##### Specific Purpose:

This section is adopted for clarity to include a definition of the term “Waiver.”

##### Factual Basis:

This section is adopted and is necessary to provide a definition of a nontransferable written authorization issued by the Department to use alternative means which meet the intent of a specific regulation and which are based on a Home Care Organization-wide need or circumstance, as authorized by Section 1796.63(a) of the Health and Safety Code.

#### Section 130004(a)

##### Specific Purpose:

This section is adopted to specify the forms furnished by the Department to be used by Home Care Organization applicants, Home Care Organization licensees, Home Care Aide applicants, Registered Home Care Aides, Home Care Aide renewal applicants, and Home Care Organization employees and volunteers.

##### Factual Basis:

This section is adopted to specify, and incorporate by reference, in their entirety, forms furnished by the Department for the purposes of licensing and registration. The forms are not printed in the California Code of Regulations because it would be cumbersome and impractical. The forms listed in this section at Sections 130004(a)(1) through (a)(16) are available to the public at:

Link to HCS Forms: <http://www.cdss.ca.gov/inforesources/Forms-Brochures/Forms-Alphabetic-List/E-H>

Link to LIC Forms: <http://www.cdss.ca.gov/inforesources/Forms-Brochures/Forms-Alphabetic-List/I-L>

Link to SOC Forms: <http://www.cdss.ca.gov/inforesources/Forms-Brochures/Forms-Alphabetic-List/Q-T>

#### Section 130004(a)(1)

##### Specific Purpose:

This section is adopted to specify that suboffice requests must be submitted on form HCS 001 (12/15) – Home Care Organization Suboffice Request. The detailed elements purpose may be found starting at Subdivision (d)(1) of Section 130030.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form a Home Care Organization applicant or licensee must use for the purpose of requesting a Home Care Organization suboffice.

#### Section 130004(a)(2)

##### Specific Purpose:

This section is adopted to specify that a Registered Home Care Aide's registration renewal must be submitted on form HCS 101 (10/17) – Home Care Aide Registration Renewal if the Registered Home Care Aide chooses to renew manually and not online. The detailed elements purpose may be found starting at Subdivision (b) of Section 130210.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form a Registered Home Care Aide must use for the purposes of requesting a Home Care Aide registration renewal if the individual does not renew his or her registration online.

#### Section 130004(a)(3)

##### Specific Purpose:

This section is adopted to specify that a Home Care Aide's registration application must be submitted on form HCS 100 (12/15) – Application for Home Care Aide Registration if the individual does not apply online. The detailed elements purpose may be found starting at Subdivision (b)(1) of Section 130081.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form a Home Care Aide applicant must use for the purposes of requesting a Home Care Aide Registration if the individual does not apply online.

#### Section 130004(a)(4)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization license application must be submitted on form HCS 200 (08/15) – Application for Home Care Organization License. The detailed elements purpose may be found starting at Subdivision (c)(1) of Section 130021.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form the Home Care Organization applicant or licensee must use for the purposes of requesting a Home Care Organization license.

#### Section 130004(a)(5)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization license applicant's information must be submitted on form HCS 215 (08/15) – Home Care Organization Licensee Applicant Information. The detailed elements purpose may be found starting at Subdivision (c)(2) of Section 130021.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form a Home Care Organization license applicant must use for the purpose of submitting applicant information.

#### Section 130004(a)(6)

##### Specific Purpose:

This section is adopted to specify that the designation of Home Care Organization responsibility shall be submitted on form HCS 308 (08/15) – Designation of Home Care Organization Responsibility. The detailed elements purpose may be found starting at Subdivision (c)(3) of Section 130021.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form a Home Care Organization applicant or licensee must use for the purpose of submitting a designation of Home Care Organization responsibility.

#### Section 130004(a)(7)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization's company organizational structure must be submitted on form HCS 309 (08/15) – Partnership/Corporation/Limited Liability Company Organizational Structure. The detailed elements purpose may be found starting at Subdivision (c)(4) of Section 130021.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form a Home Care Organization applicant or licensee must use for the purpose of submitting the Home Care Organization's company organizational structure.

#### Section 130004(a)(8)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization's surety bond information must be submitted on form HCS 402 (12/15) – Home Care Organization Dishonesty Bond. The detailed elements purpose may be found starting at Subdivision (d)(6) of Section 130021.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form a Home Care Organization applicant or licensee must use for the purpose of submitting the Home Care Organization's dishonesty bond information.

#### Section 130004(a)(9)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization's personnel information for each Home Care Organization applicant, licensee, Affiliated Home Care Aide, employee, staff member, and volunteer must be submitted on form HCS 501 (06/17) – Personnel Record. The detailed elements purpose may be found starting at Subdivision (b) of Section 130066.

Factual Basis:

This section is adopted and is necessary to identify the specific form that a Home Care Organization applicant, licensee, staff member, employee, volunteer, and Affiliated Home Care Aide must use for the purpose of submitting personnel information.

Section 130004(a)(10)

Specific Purpose:

This section is adopted to specify that a Home Care Organization's signed statement by each member or prospective member of its board of directors acknowledging that he or she understands his or her legal duties and obligations must be submitted on form HCS 9165 (08/15) – Board of Director Statement. The detailed elements purpose may be found starting at Subdivision (c)(5) of Section 130021.

Factual Basis:

This section is adopted and is necessary to identify the specific form that the Home Care Organization's board of directors must use for the purpose of acknowledging his or her legal duties and obligations.

Section 130004(a)(11)

Specific Purpose:

This section is adopted to specify that a Home Care Organization applicant, licensee, designee, employee, staff member, volunteer, Registered Home Care Aide, or Home Care Aide applicant who require a criminal record exemption must use form LIC 301E (07/03) – Reference Request for submitting references as part of a criminal record exemption request. The detailed elements purpose may be found starting at Subdivision (d)(6)(A) of Section 130110.

Factual Basis:

This section is adopted and is necessary to identify the specific form that a Home Care Organization applicant, licensee, staff member, employee, volunteer, Home Care Aide, or Home Care Aide applicant must use for the purpose of submitting a personal reference as part of a criminal record exemption request.



#### Section 130004(a)(12)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization licensee must submit a current roster of all designees, employees, staff members, volunteers, and Affiliated Home Care Aides on form LIC 500 (11/03) – Personnel Report. The detailed elements purpose may be found starting at Subdivision (c)(2) of Section 130200.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form that a Home Care Organization applicant or licensee must use for the purpose of submitting a current roster to the Department.

#### Section 130004(a)(13)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization applicant, licensee, designee, employee, staff member, volunteer, Affiliated Home Care Aide, or Home Care Aide applicant must submit a criminal record statement on form LIC 508 (07/15) – Criminal Record Statement. The detailed elements purpose may be found starting at Subdivision (c)(6) of Section 130021.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form that a Home Care Organization applicant or licensee, staff member, employee, volunteer, Affiliated Home Care Aide, or Home Care Aide applicant must use for the purpose of submitting a criminal record statement to the Department.

#### Section 130004(a)(14)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization applicant, licensee, designee, employee, staff member, volunteer, or Home Care Aide applicant must submit fingerprints by using form LIC 9163 (12/15) – Request for Live Scan Service-Community Care Licensing.

##### Factual Basis:

This section is adopted and is necessary to identify the specific form that a Home Care Organization applicant, licensee, designee, staff member, employee, volunteer,

or Home Care Aide applicant must use for the purpose of submitting fingerprints to the Department of Justice for a criminal record background check.

Section 130004(a)(15)

Specific Purpose:

This section is adopted to specify that a request to transfer an individual's criminal record exemption must be submitted on form LIC 9188 (11/15) Criminal Record Exemption Transfer Request. The detailed elements purpose may be found starting at Subdivision (q)(1) of Section 130110.

Factual Basis:

This section is adopted and is necessary to identify the specific form that must be used for the purpose of submitting a criminal record exemption transfer request.

Section 130004(a)(16)

Specific Purpose:

This section is adopted to specify that a signed statement acknowledging the requirements to report suspected abuse must be submitted on form SOC 341A (03/15) – Statement Acknowledging Requirements to Report Suspected Abuse of Dependent Adults and Elders. The detailed elements purpose may be found starting at Subdivision (c)(4) of Section 130066.

Factual Basis:

This section is adopted and is necessary to identify the specific form a Home Care Organization applicant, licensee, staff member, employee, volunteer, or Affiliated Home Care Aide must use to acknowledge abuse reporting requirements.

Sections 130006(a) through (a)(1), and (b) through (b)(2)

Specific Purpose:

These sections are adopted to specify that if the Department determines that unlicensed home care services are being arranged, the Department will issue a Notice of Operation in Violation of Law to the individual or entity, and the individual or entity must immediately cease arranging unlicensed home care services or apply for a license as specified in Section 130021.

Factual Basis:

These sections are adopted and are necessary to specify the actions and procedures the Department will take when unlicensed home care services are being arranged, as authorized by Sections 1796.35 and 1796.63 of the Health and Safety Code.

Sections 130007(a) and (a)(1) through (a)(2)

Specific Purpose:

These sections are adopted to specify that the Department has the authority to issue a single or multiple Home Care Organization licenses for separate buildings provided the buildings are integral components of a single Home Care Organization with a common address and are owned and operated by the same licensee.

Factual Basis:

These sections are adopted and are necessary to specify the licensing of integral components of a single Home Care Organization, as authorized by Section 1796.63(a) of the Health and Safety Code.

Section 130007(b)

Specific Purpose:

This section is adopted to specify that the Department has the authority to issue Home Care Organization licenses to separate components of a single organization.

Factual Basis:

This section is adopted and is necessary to specify the licensing of integral components of a single Home Care Organization, as authorized by Section 1796.63(a) of the Health and Safety Code.

Sections 130008(a) and (b)

Specific Purpose:

These sections are adopted to specify that Home Care Organization licensees must post a valid, unaltered license in a conspicuous location, visible to both clients and Affiliated Home Care Aides, in no less than 36-point font.

Factual Basis:

These sections are adopted and are necessary to specify the requirements for posting of information as authorized by Section 1796.42(a) of the Health and Safety Code.

Section 130008(c)

Specific Purpose:

This section is adopted to specify that a Home Care Organization licensee must post notification of sale of property or business, or both in no less than 12-point type and at least thirty (30) calendar days prior to the date of sale.

Factual Basis:

This section is adopted and is necessary to specify the requirements for posting of information as authorized by Section 1796.42(a) of the Health and Safety Code.

Section 130009(a)

Specific Purpose:

This section is adopted to clarify that a Home Care Organization license and any waiver or exception issued by the Department are not transferable.

Factual Basis:

This section is adopted and is necessary to specify the sale of property and business requirements as authorized by Section 1796.55 and 1796.63 of the Health and Safety Code.

Section 130009(b)

Specific Purpose:

This section is adopted to clarify that upon the event of a Home Care Organization licensee's death, written notification of the date of death and status of the Home Care Organization must be provided to the Department within two (2) days. If a new owner is identified, this change in ownership must comply with Subdivision (a)(1) of Section 130022.

Factual Basis:

This section is adopted and is necessary to specify the sale of property and business requirements as authorized by Sections 1796.55 and 1796.63 of the Health and Safety Code.

Section 130020(a)

Specific Purpose:

This section is adopted to specify the Department's nondiscrimination policy regarding those seeking a Home Care Organization license.

Factual Basis:

This section is adopted and is necessary to specify the Department's nondiscrimination policy as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130021(a)

Specific Purpose:

This section is adopted to specify who may submit a Home Care Organization license application.

Factual Basis:

This section is adopted and is necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37, and 1796.49 of the Health and Safety Code.

Section 130021(b)

Specific Purpose:

This section is adopted to require a Home Care Organization license applicant to sign the license application acknowledging that he or she has read and understands the statutes and regulations, which pertain to Home Care Organizations, prior to issuance of a license.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37, and 1796.49 of the Health and Safety Code.

Sections 130021(c), and (c)(1) through (c)(1)(O)

Specific Purpose:

These sections are adopted to specify the information required on the Application for a Home Care Organization License (HCS 200) form provided by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37(a)(1) and (12), 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(c)(2) through (c)(2)(L)

Specific Purpose:

These sections are adopted to specify the information required on the Home Care Organization Licensee Applicant Information (HCS 215) form provided by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37, and 1796.49 of the Health and Safety Code.

Sections 130021(c)(3) through (c)(3)(F)

Specific Purpose:

These sections are adopted to specify the information required on the Designation of Home Care Organization Responsibility (HCS 308) form provided by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37(a)(1), and (12), 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(c)(4) through (c)(4)(E)

Specific Purpose:

These sections are adopted to specify the information required on the Partnership/Corporation/Limited Liability Company Organization Structure (HCS 309) form provided by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37(a)(1) and (12), 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(c)(5) through (c)(5)(D)

Specific Purpose:

These sections are adopted to specify the information required on the Board of Directors Statement (HCS 9165) form, provided by the Department, if the Home Care Organization applicant is an entity controlled by a board of directors.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37(a)(1), (11) and (12), 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(c)(6) through (c)(6)(G)

Specific Purpose:

These sections are adopted to specify the information required on the Criminal Record Statement (LIC 508) form provided by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.23(a), 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(d), and (d)(1) through (d)(1)(H)

Specific Purpose:

These sections are adopted to specify the supporting documents required as part of the Home Care Organization application package when the Home Care Organization applicant is a partnership, corporation, limited liability company, public agency, or foreign entity.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37(a)(1) and (12), 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(d)(2) through (d)(2)(D)

Specific Purpose:

These sections are adopted to specify the information required as part of the Home Care Organization application package regarding job descriptions for staff, volunteers, and Affiliated Home Care Aides.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37(a)(1) and (12), 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(d)(3) through (d)(3)(D)

Specific Purpose:

These sections are adopted to specify the information required as part of Home Care Organization application package regarding personnel policies.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37(a)(1) and (12), 1796.49, and 1796.63 of the Health and Safety Code.



Sections 130021(d)(4) through (d)(4)(D)

Specific Purpose:

These sections are adopted to specify the information required as part of the Home Care Organization application package regarding the Home Care Organization's training plan and verification log for the entry-level and annual training requirements of all Affiliated Home Care Aides.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(d)(5) through (d)(5)(F)

Specific Purpose:

These sections are adopted to specify the information required as part of the Home Care Organization application package regarding the Home Care Organization's program description.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37(a)(1) and (12), 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(d)(6) through (d)(6)(A)1.h.

Specific Purpose:

These sections are adopted to specify the information required on the Home Care Organization Dishonesty Bond (HCS 402) form, provided by the Department, that is submitted as part of the Home Care Organization application package.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(d)(6)(B)1, through (B)5, and (C)

Specific Purpose:

These sections are adopted to specify the documentation required as part of the Home Care Organization application package as proof of general liability insurance, professional liability insurance, and worker's compensation insurance.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130021(e), and (e)(1) through (e)(3)

Specific Purpose:

These sections are adopted to specify the items required to be filed with the Home Care Organization application, which includes information on forms provided by the Department and supporting documents, the fee for processing the application, and any other information that may be required by the Department for the proper administration and enforcement of these regulations.

Factual Basis:

These sections are adopted and are necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130021(f)

Specific Purpose:

This section is adopted to specify that the Home Care Organization applicant or licensee must submit original documents to the Department unless otherwise specified.

Factual Basis:

This section is adopted and is necessary to specify the initial license application process as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Code.

Sections 130022(a), and (a)(1) through (a)(1)(E)

Specific Purpose:

These sections are adopted to specify that a new Home Care Organization application, including all application forms and supporting documents, is required when a death of a licensee occurs.

Factual Basis:

These sections are adopted and are necessary to specify the submission of new application forms as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130022(a)(2) through (a)(2)(C)

Specific Purpose:

These sections are adopted to specify that a new Home Care Organization application, including all application forms and supporting documents, is required when the licensee is a corporation and there is a change of licensee, including a change in controlling interest, separation from a parent company, or merger with another company.

Factual Basis:

These sections are adopted and are necessary to specify the submission of new application forms as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Sections 130022(a)(3) through (a)(3)(A)

Specific Purpose:

These sections are adopted to specify the Home Care Organization application forms that are required when the licensee is a corporation and there is a change within the corporation.

Factual Basis:

These sections are adopted and are necessary to specify the submission of new application forms as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130022(a)(3)(A)1.

Specific Purpose:

This section is adopted to specify that a new Home Care Organization application, including all application forms and supporting documents, is required when the licensee is a corporation and there is a change within the corporation that involves a change of owner.

Factual Basis:

This section is adopted and is necessary to specify the submission of new application forms as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130022(b)

Specific Purpose:

This section is adopted to specify the Home Care Organization application forms that are required when a Home Care Organization changes location.

Factual Basis:

This section is adopted and is necessary to specify the submission of new application forms as authorized by Sections 1796.12, 1796.36, 1796.37, 1796.49, and 1796.63 of the Health and Code.

Sections 130023(a), and (a)(1) through (a)(2)

Specific Purpose:

This section is adopted to specify that within ninety (90) calendar days of receipt of the Home Care Organization application package, the Department will give written notice that either the application package is complete and the Department will begin its review, or the application package is deficient and will describe what documents are outstanding, inadequate, or both.

Factual Basis:

These sections are adopted and are necessary to specify the application review process as authorized by Section 1796.63 of the Health and Safety Code.

#### Sections 130023(a)(2)(A) and (B)

##### Specific Purpose:

These sections are adopted to specify if the Home Care Organization applicant is notified the application is deficient, the applicant must correct deficiencies and submit the necessary documentation within thirty (30) calendar days of the date of the notice, or the application may be denied unless the Department has received and approved a withdrawal request.

##### Factual Basis:

These sections are adopted and are necessary to specify the application review process as authorized by Section 1796.63 of the Health and Safety Code.

#### Section 130023(b)

##### Specific Purpose:

This section is adopted to specify the review of the Home Care Organization application by the Department does not constitute approval of the application.

##### Factual Basis:

This section is adopted and is necessary to specify the application review process as authorized by Section 1796.63 of the Health and Safety Code.

#### Sections 130023(c), and (c)(1) through (c)(2)(A)1.

##### Specific Purpose:

These sections are adopted to specify that within ninety (90) calendar days of the date of the Department's acceptance of the Home Care Organization application, the Department will give written notice to the Home Care Organization applicant or licensee that the application has been approved or denied. If approved, the license itself will be written notice of the approval. If denied, the Department's notice will contain the denial reasons and information on the right to appeal the denial. In addition, these sections are adopted to specify when the Department may continue to review a previously denied application.

##### Factual Basis:

These sections are adopted and are necessary to specify the application review process as authorized by Section 1796.63 of the Health and Safety Code.

Sections 130023(c)(3) and (c)(3)(A)

Specific Purpose:

These sections are adopted to specify if the Department has ceased review of the application, written notification, including when the Home Care Organization may reapply for licensure, must be given to the Home Care Organization applicant within ninety (90) calendar days of the Department's acceptance of the application.

Factual Basis:

These sections are adopted and are necessary to specify the application review process as authorized by Section 1796.63 of the Health and Safety Code.

Sections 130024(a) and (a)(1)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization has the right to request to withdraw an initial application and the conditions for such a withdrawal request.

Factual Basis:

These sections are adopted and are necessary to specify the application withdrawal process as authorized by Sections 1796.12, 1796.37 and 1796.63 of the Health and Safety Code.

Section 130024(a)(1)(A)

Specific Purpose:

This section is adopted to specify that a Home Care Organization withdrawal request does not deprive the Department of its authority to institute or continue a proceeding against a Home Care Organization applicant or licensee upon any ground provided by law, unless it has consented in writing to such withdrawal.

Factual Basis:

This section is adopted and is necessary to specify the application withdrawal process as authorized by Sections 1796.12, 1796.37, and 1796.63 of the Health and Safety Code.

#### Section 130024(a)(2)

##### Specific Purpose:

This section is adopted to specify that if the Department grants an application withdrawal, no time must elapse before a new application may be submitted.

##### Factual Basis:

This section is adopted and is necessary to specify the application withdrawal process as authorized by Sections 1796.12, 1796.37, and 1796.63 of the Health and Safety Code.

#### Sections 130025(a) and (b)

##### Specific Purpose:

These sections are adopted to specify a Home Care Organization applicant or licensee is required to attend a Department-approved orientation prior to receiving a license. If applying for more than one license simultaneously or an additional license, the Home Care Organization applicant or licensee is not required to take another orientation within three (3) years of the last orientation successfully completed.

##### Factual Basis:

These sections are adopted and are necessary to specify the application orientation process as authorized by Sections 1796.37, 1796.44, and 1796.63 of the Health and Safety Code.

#### Section 130025(b)(1) and (b)(1)(A) through (C)

##### Specific Purpose:

This section is adopted to specify that the orientation will cover, but not be limited to: scope of operation subject to regulation by the Department; reporting requirements; and the inspection process.

##### Factual Basis:

This section is adopted and is necessary to specify the application orientation process as authorized by Sections 1796.37, 1796.44, and 1796.63 of the Health and Safety Code.

Section 130025(b)(2) and (b)(2)(A)

Specific Purpose:

This section is adopted to specify that upon completion of the orientation, an assessment will be administered to the Home Care Organization applicant or licensee and must be successfully completed within thirty (30) calendar days from the date of completion of the orientation or the fee will be forfeited and the application may be denied.

Factual Basis:

This section is adopted and is necessary to specify the application orientation process as authorized by Sections 1796.37, 1796.44, and 1796.63 of the Health and Safety Code.

Section 130025(b)(3)

Specific Purpose:

This section is adopted to specify that an orientation certificate of completion will be provided by the Department and must be included in the personnel record as specified in Subdivision (g) of Section 130066.

Factual Basis:

This section is adopted and is necessary to specify the application orientation process as authorized by Sections 1796.37, 1796.44, and 1796.63 of the Health and Safety Code.

Section 130025(b)(4) and (5)

Specific Purpose:

This section is adopted to specify that unless approved by the Department, the orientation fee is due prior to registration for an orientation. The orientation fee is nonrefundable and must be paid by check or money order made payable to the Department and mailed to the address indicated in the orientation notice.

Factual Basis:

This section is adopted and is necessary to specify the application orientation process as authorized by Sections 1796.37, 1796.44, and 1796.63 of the Health and Safety Code.



#### Section 130026(a)

##### Specific Purpose:

This section is adopted to specify that the Department has the authority to issue a conditional license to a Home Care Organization applicant who is in substantial compliance with applicable laws and regulations and an urgent need for licensure exists, including the need to facilitate the sale of a Home Care Organization.

##### Factual Basis:

This section is adopted and is necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.37, and 1796.49 of the Health and Safety Code.

#### Sections 130026(b) and (c)

##### Specific Purpose:

These sections are adopted to specify that the Department has the authority to issue a conditional license for four (4) months, and the Department may extend a conditional license for an additional three (3) months when it determines additional time is required to achieve full compliance with licensing laws due to circumstances beyond the control of the Home Care Organization applicant.

##### Factual Basis:

These sections are adopted and are necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130026(d)

##### Specific Purpose:

This section is adopted to specify that if the Department discovers any serious deficiencies during the conditional license period, the Department has the authority to institute an administrative action and refer the case for criminal prosecution.

##### Factual Basis:

This section is adopted and is necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130026(e)

##### Specific Purpose:

This section is adopted to specify that the conditional license will terminate on the expiration date specified on the conditional license or upon denial of the application, whichever is earlier.

##### Factual Basis:

This section is adopted and is necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130026(f)

##### Specific Purpose:

This section is adopted to specify that if a conditional license is converted to a Home Care Organization license, the renewal date of the license will be based upon the original issue date of the conditional license.

##### Factual Basis:

This section is adopted and is necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130026(g)

##### Specific Purpose:

This section is adopted to specify that upon applying for a license, the individual or entity will no longer be considered an unlicensed Home Care Organization, and the unlicensed civil penalty will not accrue for the duration of the conditional license.

##### Factual Basis:

This section is adopted and is necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130026(h)

##### Specific Purpose:

This section is adopted to specify that denial, termination, or withdrawal of a conditional license does not deprive the Department of its authority to institute or continue a proceeding against the Home Care Organization applicant.

##### Factual Basis:

This section is adopted and is necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.49, and 1796.63 of the Health and Safety Code.

#### Sections 130026(i), and (i)(1) through (i)(3)

##### Specific Purpose:

These sections are adopted to specify that civil penalties will be imposed if: an unlicensed Home Care Organization is operating and the individual or entity refuses to seek licensure; a license application is denied and the Home Care Organization continues to operate; or, a conditional license expires and the individual or entity continues to operate the unlicensed Home Care Organization.

##### Factual Basis:

These sections are adopted and are necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130026(j)

##### Specific Purpose:

This section is adopted to specify the Home Care Organization applicant's right to appeal a license application denial and/or assessment of civil penalties.

##### Factual Basis:

This section is adopted and is necessary to specify the conditional license process as authorized by Sections 1796.35, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130027(a)

##### Specific Purpose:

This section is adopted to specify that unless prior written approval is received from the Department, the Home Care Organization is required to maintain continuous compliance with regulations.

##### Factual Basis:

This section is adopted and is necessary to specify the waivers and exceptions compliance requirements as authorized by Sections 1796.51 and 1796.63 of the Health and Safety Code.

#### Section 130027(b)

##### Specific Purpose:

This section is adopted to specify that the Department has the authority to approve a waiver for a Home Care Organization-wide need or circumstance or an exception for a client, Home Care Aide, or staff need or circumstance.

##### Factual Basis:

This section is adopted and is necessary to specify the waivers and exceptions requirements as authorized by Sections 1796.51 and 1796.63 of the Health and Safety Code.

#### Sections 130027(b)(1) and (2)

##### Specific Purpose:

These sections are adopted to specify that exceptions and waivers must be carried out with provisions for safe and adequate services and must not be detrimental to the health and safety of any client, staff, volunteer, or Affiliated Home Care Aide. If the Home Care Organization applicant or licensee is seeking a waiver or exception, a written request along with substantiating evidence supporting the request must be submitted.

##### Factual Basis:

These sections are adopted and are necessary to specify the waivers and exceptions requirements as authorized by Sections 1796.51 and 1796.63 of the Health and Safety Code.

Sections 130027(c), and (c)(1) through (c)(2)(A)

Specific Purpose:

These sections are adopted to specify that within thirty (30) calendar days of receipt of a request for a waiver or exception, the Department will notify the Home Care Organization applicant or licensee in writing that the request has either been accepted for consideration or the request is deficient, and will describe the additional information required with a timeframe for submitting the information. If the Home Care Organization applicant or licensee fails to submit the information within the specified timeframe, the request will be denied.

Factual Basis:

These sections are adopted and are necessary to specify the waivers and exceptions requirements as authorized by Sections 1796.51 and 1796.63 of the Health and Safety Code.

Section 130027(d)

Specific Purpose:

This section is adopted to specify that within ninety (90) calendar days following acceptance of a waiver or exception request, the Department will notify the Home Care Organization or licensee in writing whether the request has been approved or denied.

Factual Basis:

This section is adopted and is necessary to specify the waivers and exceptions requirements as authorized by Sections 1796.51 and 1796.63 of the Health and Safety Code.

Sections 130028(a), and (a)(1) through (a)(2)

Specific Purpose:

These sections are adopted to specify that the Department will charge Home Care Organizations a nonrefundable initial application fee in the amount of five thousand six hundred three dollars (\$5,603) and a non-refundable renewal fee in the amount of five thousand six hundred three dollars (\$5,603) every two years on the anniversary of the effective date of the license.

Factual Basis:

These sections are adopted and are necessary to specify the licensing fees as authorized by Sections 1796.12, 1796.31, 1796.47, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130028(b)

Specific Purpose:

This section is adopted to specify that the Department will charge other fees in addition to the initial application and renewal fees authorized in Subdivision (a) of Section 130028.

Factual Basis:

This section is adopted and is necessary to specify the licensing fees as required by Sections 1796.12, 1796.31, 1796.47, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130028(b)(1)

Specific Purpose:

This section is adopted to specify that the Department will charge a fee of fifty dollars (\$50) for attendance of a Department-approved orientation session.

Factual Basis:

This section is adopted and is necessary to specify the licensing fees as required by Sections 1796.12, 1796.31, 1796.47, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130028(b)(2)

Specific Purpose:

This section is adopted to specify that the Department will charge a fee to cover any costs incurred by the Department for processing payments including, but not limited to, dishonored check charges, charges for credit and debit transactions, and postage due charges.

Factual Basis:

This section is adopted and is necessary to specify the licensing fees as required by Sections 1796.12, 1796.31, 1796.47, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130028(b)(3)

Specific Purpose:

This section is adopted to specify that the Department will charge a fee of one hundred dollars (\$100) if an existing licensee moves the Home Care Organization to a new physical address.

Factual Basis:

This section is adopted and is necessary to specify the licensing fees as required by Sections 1796.12, 1796.31, 1796.47, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130028(b)(4)

Specific Purpose:

This section is adopted to specify that the Department will charge a fee of two hundred dollars (\$200) if a change occurs within a corporation.

Factual Basis:

This section is adopted and is necessary to specify the licensing fees as required by Sections 1796.12, 1796.31, 1796.47, 1796.49, and 1796.63 of the Health and Safety Code.

Section 130028(b)(5)

Specific Purpose:

This section is adopted to specify that the Department will charge a probation monitoring fee, if applicable, equal to the initial application fee.

Factual Basis:

This section is adopted and is necessary to specify the licensing fees as required by Sections 1796.12, 1796.31, 1796.47, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130028(c)

##### Specific Purpose:

This section is adopted to specify that all fees paid to the Department are nonrefundable.

##### Factual Basis:

This section is adopted and is necessary to specify the licensing fees as required by Sections 1796.12, 1796.31, 1796.47, 1796.49, and 1796.63 of the Health and Safety Code.

#### Section 130028(d)

##### Specific Purpose:

This section is adopted to specify that all fees must be paid via check or money order.

##### Factual Basis:

This section is adopted and is necessary to specify the methods of payment that the Department will accept, as authorized by Section 1796.49 of the Health and Safety Code. The Department is using its authority to set good business practices in establishing these regulations.

#### Section 130028(e)

##### Specific Purpose:

This section is adopted to specify that if a business or personal check has been dishonored, a business or personal check will no longer be accepted, and payment must be in the form of a cashier's check or money order.

##### Factual Basis:

This section is adopted and is necessary to specify the Department's dishonored check policy. The Department is using its authority to set good business practices in establishing these regulations.



#### Section 130030(a)

##### Specific Purpose:

This section is adopted to specify the purpose under which a Home Care Organization may operate a suboffice.

##### Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

#### Section 130030(b)

##### Specific Purpose:

This section is adopted to specify that a suboffice cannot have full time staff present for more than twenty-four (24) hours within a seven-day period.

##### Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

#### Section 130030(c)

##### Specific Purpose:

This section is adopted to specify that client records cannot be stored at a suboffice.

##### Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

#### Section 130030(d)

##### Specific Purpose:

This section is adopted to specify that a suboffice needs to be approved by the Department prior to operation.

Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

Section 130030(d)(1) through (d)(1)(H)

Specific Purpose:

These sections are adopted to specify the information required to be included on the Home Care Organization Suboffice Request (HCS 001) form furnished by the Department.

Factual Basis:

These sections are adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

Section 130030(e)

Specific Purpose:

This section is adopted to specify that a suboffice must post a copy of the Home Care Organization license in a conspicuous location.

Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

Section 130030(f)

Specific Purpose:

This section is adopted to specify that a suboffice cannot provide in-person meetings with clients or potential clients.

Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

#### Section 130030(g)

##### Specific Purpose:

This section is adopted to specify that a Home Care Organization is required to submit a new request prior to a change in staffing, operation, or administration of a suboffice.

##### Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

#### Section 130030(h)

##### Specific Purpose:

This section is adopted to specify that the Department has inspection authority over a suboffice(s).

##### Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

#### Section 130030(h)(1)

##### Specific Purpose:

This section is adopted to specify that the Department may take administrative action against a Home Care Organization licensee for the failure of a suboffice to comply with any provision of applicable law.

##### Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

#### Section 130030(i)

##### Specific Purpose:

This section is adopted to specify that the Department may require a suboffice to become licensed as a separate Home Care Organization when it has determined the suboffice is no longer within the parameters of the definition of a suboffice.

##### Factual Basis:

This section is adopted and is necessary to specify suboffice requirements as authorized by Sections 1796.42, 1796.51, 1796.52, 1796.53, and 1796.63 of the Health and Safety Code.

#### Section 130040(a)

##### Specific Purpose:

This section is adopted to specify that the Department will deny an initial Home Care Organization license application if the Department determines the applicant is not in compliance with applicable laws and regulations.

##### Factual Basis:

This section is adopted and is necessary to specify the license application denial process as authorized by Sections 1796.38, 1796.40, and 1796.63 of the Health and Safety Code.

#### Sections 130040(a)(1) and (a)(1)(A)

##### Specific Purpose:

These sections are adopted to specify that the Department may deny an initial license application for failure to pay civil penalties.

##### Factual Basis:

These sections are adopted and are necessary to specify the license application denial process as authorized by Sections 1796.38, 1796.40, and 1796.63 of the Health and Safety Code.

#### Section 130040(b)

##### Specific Purpose:

This section is adopted to specify that if an initial license application is denied, the Department will mail written notification of the denial to the Home Care Organization applicant, informing the applicant of the reasons for denial and the right to appeal the decision.

##### Factual Basis:

This section is adopted and is necessary to specify the license application denial process as authorized by Sections 1796.38, 1796.40, and 1796.63 of the Health and Safety Code.

#### Section 130040(b)(1)

##### Specific Purpose:

This section is adopted to specify that a denied license application does not deprive the Department of its authority to institute or continue a proceeding against a Home Care Organization applicant or licensee upon any ground provided by law, unless it has consented in writing to such an agreement.

##### Factual Basis:

This section is adopted and is necessary to specify the license application denial process as authorized by Sections 1796.38, 1796.40, and 1796.63 of the Health and Safety Code.

#### Section 130040(c)

##### Specific Purpose:

This section is adopted to specify that if a Home Care Organization license application is denied, the business is considered unlicensed and is not allowed to operate.

##### Factual Basis:

This section is adopted and is necessary to specify the license application denial process as authorized by Sections 1796.38, 1796.40, and 1796.63 of the Health and Safety Code.

Section 130041(a), and (a)(1) and (a)(2)

Specific Purpose:

These sections are adopted to specify that the Department may revoke or suspend a Home Care Organization license if a licensee fails to protect confidential client information, or if a corporate licensee has a member of the board of directors, an executive director, or an officer who is not eligible for licensure.

Factual Basis:

These sections are adopted and are necessary to specify the license revocation process as authorized by Sections 1796.38, 1796.41, and 1796.63 of the Health and Safety Code.

Sections 130042(a), and (a)(1) through (a)(5)

Specific Purpose:

These sections are adopted to specify the circumstances in which the Department may prohibit an individual from serving as a member of the board of directors, an executive director, an officer, or as a licensee of a Home Care Organization, or from employing, continuing the employment of, or allowing an individual to volunteer at a Home Care Organization if the individual has contact with clients, prospective clients, or confidential client information.

Factual Basis:

These sections are adopted and are necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

Sections 130042(b), and (b)(1) through (b)(3)

Specific Purpose:

These sections are adopted to specify that the Department may require the immediate removal of an individual when the Department believes the action is necessary to protect clients from physical or mental abuse, abandonment, or any other substantial threat to their health and safety. These sections are also adopted to specify the process for serving an immediate exclusion on an individual, as well as the Department's timeframes for taking the case to hearing and reaching a final determination if the individual appeals the exclusion action.

Factual Basis:

These sections are adopted and are necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

Section 130042(c)

Specific Purpose:

This section is adopted to specify that an excluded person who files a written appeal must provide his or her current mailing address and subsequently notify the Department of any change in mailing address within forty-eight (48) hours, until the hearing process has been completed or terminated.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

Section 130042(d)

Specific Purpose:

This section is adopted to specify that hearings must be conducted in accordance with Section 11500 of the Government Code, and the standard of proof is a preponderance of the evidence with the burden of proof being on the Department.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized in Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

#### Section 130042(e)

##### Specific Purpose:

This section is adopted to specify that the Department may institute or continue a disciplinary proceeding against any individual listed in Subdivision (a) of Section 130042, upon any ground provided by this section notwithstanding any withdrawal of Home Care Organization application, withdrawal of registry application, resignation, withdrawal of employment application, change of duties, discharge, failure to hire, or reassignment of an excluded person by the licensee or that the excluded person no longer has contact with clients at the Home Care Organization.

##### Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

#### Section 130042(e)(1)

##### Specific Purpose:

This section is adopted to specify that a licensee's failure to comply with an exclusion order after being notified by the Department is grounds for disciplinary actions against the licensee.

##### Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

#### Sections 130042(f), and (f)(1) through (f)(4)

##### Specific Purpose:

These sections are adopted to specify that in cases where an excluded person appealed the exclusion order, and the order was upheld through the administrative hearing process, the person is thereafter excluded for the remainder of his or her life, unless otherwise ordered by the Department, from: serving as a member of the board of directors, an executive director, an officer, or a licensee of a Home Care Organization; being employed at or volunteering at a Home Care Organization if the individual has contact with clients, prospective clients, or confidential client information; applying to be or continuing to be a Registered Home Care Aide; or



having contact with clients, prospective clients, or access to confidential client information of a Home Care Organization.

Factual Basis:

These section are adopted and are necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

Section 130042(g)

Specific Purpose:

This section is adopted to specify that an excluded individual may petition for reinstatement one (1) year after the effective date of the Department's decision and order upholding the exclusion order, and the Department must provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

Section 130042(h)

Specific Purpose:

This section is adopted to specify that in cases where the Department informed the excluded person of his or her right to appeal the exclusion order, and the excluded person did not appeal, the excluded person will be prohibited from engaging in the activities set forth in subdivisions (f)(1) through (4) for the remainder of their life, unless otherwise ordered by the Department.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.38, 1796.40, 1796.41, and 1796.63 of the Health and Safety Code.

#### Section 130043(a) and (b)

##### Specific Purpose:

These sections are adopted to specify that a probation fee will be charged for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administration Procedures Act, and the Department may conduct unannounced inspections in order to determine compliance with a stipulation or decision and order.

##### Factual Basis:

These sections are adopted and are necessary to specify probationary licensure requirements as authorized by Sections 1796.47(a)(1), 1796.49, 1796.52(b) and (c), 1796.55, and 1796.63 of the Health and Safety Code.

#### Sections 130044(a) and (b)

##### Specific Purpose:

These sections are adopted to specify that each Home Care Organization applicant and licensee has the right to bring to the attention of the Department any alleged misapplication or capricious enforcement of the Act or regulations by the Department, and a review of such complaint will be conducted in accordance with Subdivision (a) and (b) of Section 130056.

##### Factual Basis:

These sections are adopted and are necessary to specify the right to challenge misapplication or capricious enforcement of statute or regulations as authorized by Section 1796.63 of the Health and Safety Code.

#### Sections 130045(a) and (b)

##### Specific Purpose:

These sections are adopted to specify that an administrative law judge conducting a hearing may permit the testimony of a child witness or similarly vulnerable witness, and an out-of-court statement made by a minor under 12 years of age who is the subject or victim of an allegation at issue is admissible evidence at an administrative hearing.

Factual Basis:

These sections are adopted and are necessary to specify the hearing process as authorized by Sections 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(a)

Specific Purpose:

This section is adopted to specify that Department representatives may, upon proper identification and upon stating the purpose of the visit, enter and inspect the premises of any place that arranges for the provision of home care services, including suboffice(s), during business hours, with or without advance notice.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(b)

Specific Purpose:

This section is adopted to specify that if a Home Care Organization and/or suboffice is not open to the public more than eight (8) consecutive hours per month Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., then the Home Care Organization and suboffice(s) must be available for inspection or investigation by the Department within two (2) hours' notice Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(b)(1)

Specific Purpose:

This section is adopted to specify that notice pursuant to Subdivision (b) of Section 130048 will be given by phone to the licensee's telephone number of record.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(b)(2)

Specific Purpose:

This section is adopted to specify that if a Home Care Organization licensee or designee fails to make the Home Care Organization and/or suboffice available for inspection within the appointed time, the licensee will be cited and a civil penalty not to exceed one hundred fifty dollars (\$150) may be issued.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(b)(3)

Specific Purpose:

This section is adopted to specify that if a Home Care Organization licensee or designee fails to make the Home Care Organization and/or suboffice available for inspection within the appointed time for a second time within a 12-month period, the licensee will be cited and the Department may withdraw the licensee's authority to operate the suboffice.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(b)(4)

Specific Purpose:

This section is adopted to specify that if a Home Care Organization licensee or designee fails to make the Home Care Organization and/or suboffice available for inspection within the appointed time for a third time within a 12-month period, the licensee will be cited and the Department will withdraw the licensee's authority to operate the suboffice.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130048(c) and (c)(1)

Specific Purpose:

These sections are adopted to specify that the Department has the authority to interview any Home Care Organization staff, volunteer, or Affiliated Home Care Aide, and the licensee must make provisions for private interviews at the Home Care Organization and suboffice.

Factual Basis:

These sections are adopted and are necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130048(d) and (d)(1)

Specific Purpose:

These sections are adopted to specify that the Department has the authority to inspect, audit, and copy Home Care Organization records upon demand during business hours and may remove the records for copying if necessary.

The Department representative may not remove any current emergency and health-related information for current personnel if the same information is readily available in another document or format.

Factual Basis:

These sections are adopted and are necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130048(d)(1)(A) and (B)

Specific Purpose:

These sections are adopted to specify that prior to removing any records, the Department representative must prepare a list of records to be removed, sign and date the list, and leave a copy of the list with the licensee. The Department

representative must return the records undamaged and in good order within three (3) working days following the date the records were removed.

Factual Basis:

These sections are adopted and are necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(e)

Specific Purpose:

This section is adopted to specify that the Department has the authority to make any number of inspections to a Home Care Organization in order to determine compliance with applicable laws.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(f)

Specific Purpose:

This section is adopted to specify that reports on the results of each inspection, lists of deficiencies, and plans of correction must be kept on file with the Department.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130048(g)

Specific Purpose:

This section is adopted to specify that a Home Care Organization's refusal to make records, books, or premises available will result in a civil penalty.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130048(g)(1) and (2)

Specific Purpose:

These sections are adopted to specify that if a Home Care Organization licensee's refusal to make records, books, or premises available is a second violation, a civil penalty will result and the license may be revoked. If a Home Care Organization licensee's refusal to make records, books, or premises available is a third violation, a civil penalty will result and the license will be revoked.

Factual Basis:

This section is adopted and is necessary to specify the Department's inspection and investigation authority as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130050(a)

Specific Purpose:

This section is adopted to specify that the Department will make unannounced inspections of Home Care Organizations no less than once every two (2) years following the effective date of the license. The Home Care Organization is responsible for correcting any deficiencies found during the inspection, and compliance with all applicable laws will be determined by the Department.

Factual Basis:

This section is adopted and is necessary to specify the process for deficiencies in compliance as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130050(b)

Specific Purpose:

This section is adopted to specify that if a Department representative determines that a deficiency exists, a notice of deficiency will be issued, unless the deficiency is minor and corrected during the visit.

Factual Basis:

This section is adopted and is necessary to specify the process for deficiencies in compliance as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130050(c)

Specific Purpose:

This section is adopted to specify that prior to completion of an inspection, investigation, or other licensing visit, the Home Care Organization licensee or designee must meet with the Department representative to discuss any deficiencies, develop a plan for correcting each deficiency, and acknowledge receipt of the notice of deficiency.

Factual Basis:

This section is adopted and is necessary to specify the process for deficiencies in compliance as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130050(d), and (d)(1) through (d)(4)

Specific Purpose:

These sections are adopted to specify what information needs to be in the written notice of deficiency, including the statute or regulation which has been violated, a description of the deficiency and the manner in which the licensee failed to comply, the plan for correcting each deficiency, and a date by which each deficiency needs to be corrected.

Factual Basis:

These sections are adopted and are necessary to specify the process for deficiencies in compliance as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130050(d)(4)(A) through (D)

Specific Purpose:

These sections are adopted to specify how the Department will determine the date for correcting a deficiency, and that the date for correcting a deficiency cannot be more than thirty (30) calendar days following the notice of deficiency unless the Department determines the deficiency cannot be corrected in that timeframe.



If the timeframe to correct a deficiency is determined to require more than thirty (30) calendar days, then the notice of deficiency will specify the corrective actions that need to be taken within thirty (30) days to begin the correction process. These regulations are also adopted to specify that immediate civil penalties must be corrected within twenty-four (24) hours.

Factual Basis:

These sections are adopted and are necessary to specify the process for deficiencies in compliance as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130050(e), and (e)(1) through (e)(3)(A)

Specific Purpose:

These sections are adopted to specify how the Department representative will provide notice of deficiency to the licensee, including personal delivery at the completion of an inspection, investigation, or licensing visit, or leaving the notice with the designee and mailing a copy to the licensee if the licensee is not on site. These sections are also adopted to specify that if the licensee or designee refuses to sign or accept the notice, a notation of the refusal will be written on the notice and a copy left with the Home Care Organization, along with a copy mailed to the licensee.

Factual Basis:

These sections are adopted and are necessary to specify the process for deficiencies in compliance as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130050(f)

Specific Purpose:

This section is adopted to specify that the licensee is be responsible for ensuring the plan of correction is implemented and monitored so compliance is maintained.

Factual Basis:

This section is adopted and is necessary to specify the process for deficiencies in compliance as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

#### Section 130050(g)

##### Specific Purpose:

This section is adopted to specify that if no deficiency is cited, the licensee will receive a Home Care Organization summary report, which will serve as record of the visit.

##### Factual Basis:

This section is adopted and is necessary to specify the process for deficiencies in compliance as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

#### Sections 130051(a) and (b)

##### Specific Purpose:

These sections are adopted to specify that the Department may conduct a follow-up inspection to ensure compliance with the plan of correction specified in a notice of deficiency, and if the Department determines that the deficiency was not corrected on or before the required date, a notice of civil penalty will be issued.

##### Factual Basis:

These sections are adopted and are necessary to specify the process for deficiency compliance and follow-up inspection as authorized by Sections 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

#### Sections 130052(a), and (a)(1) through (a)(6)

##### Specific Purpose:

These sections are adopted to specify the violations that will result in a civil penalty of fifty dollars (\$50) per day if the violation is not corrected by the date specified in the notice of deficiency. These are violations that pertain to license posting, administrative records, personnel records, abuse reporting, orientation, and training.

##### Factual Basis:

These sections are adopted and are necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

#### Section 130052(b)

##### Specific Purpose:

This section is adopted to specify that if the violation set forth in Subdivision (a) of Section 130052 is a second violation of the same subdivision within a 12-month period, the Home Care Organization will be issued an immediate civil penalty of one hundred fifty dollars (\$150) per cited violation for one day, and thereafter will be issued a civil penalty in the amount of fifty dollars (\$50) per day, per cited violation, until the violation is corrected.

##### Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

#### Section 130052(c)

##### Specific Purpose:

This section is adopted to specify that if a Home Care Organization that was cited and subject to the civil penalty assessment in Subdivision (b) of Section 130052 violates the same subdivision within a 12-month period, the Home Care Organization will be issued an immediate civil penalty of nine hundred dollars (\$900) per cited violation for one day, and thereafter will be issued a civil penalty in the amount of one hundred dollars (\$100) per day, per cited violation, until the violation is corrected.

##### Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

#### Sections 130052(d), and (d)(1) through (d)(3)

##### Specific Purpose:

These sections are adopted to specify the violations that will result in a civil penalty of seventy-five dollars (\$75) per day if the violation is not corrected by the date specified in the notice of deficiency. These are violations that pertain to insurance verification, waivers and exceptions, and suspected abuse reporting.

Factual Basis:

These sections are adopted and are necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(e)

Specific Purpose:

This section is adopted to specify that if the violation set forth in Subdivision (d) of Section 130052 is a second violation of the same subdivision within a 12-month period, the Home Care Organization will be issued an immediate civil penalty of one hundred fifty dollars (\$150) per cited violation for one day, and thereafter will be issued a civil penalty in the amount of seventy-five dollars (\$75) per day, per cited violation, until the violation is corrected.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(f)

Specific Purpose:

This section is adopted to specify that if a Home Care Organization that was cited and subject to the civil penalty assessment in Subdivision (e) of Section 130052 violates the same subdivision within a 12-month period, the Home Care Organization will be issued an immediate civil penalty of nine hundred dollars (\$900) per cited violation for one day, and thereafter will be issued a civil penalty in the amount of one hundred dollars (\$100) per day, per cited violation, until the violation is corrected.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

### Sections 130052(g), and (g)(1) through (g)(2)

#### Specific Purpose:

These sections are adopted to specify the violations that will result in a civil penalty of one hundred dollars (\$100) per day until the violation is corrected. These violations pertain to Tuberculosis examination documents, criminal record clearance, or criminal record exemption documents.

#### Factual Basis:

These sections are adopted and are necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

### Section 130052(h)

#### Specific Purpose:

This section is adopted to specify that if the violation set forth in Subdivision (g) of Section 130052 is a second violation of the same subdivision within a 12-month period, the Home Care Organization will be issued an immediate civil penalty of one hundred fifty dollars (\$150) per cited violation for one day, and thereafter will be issued a civil penalty in the amount of one hundred dollars (\$100) per day, per cited violation, until the violation is corrected.

#### Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

### Section 130052(i)

#### Specific Purpose:

This section is adopted to specify that if a Home Care Organization that was cited and subject to the civil penalty assessment in Subdivision (h) of Section 130052 violates the same subdivision within a 12-month period, the Home Care Organization will be issued an immediate civil penalty of nine hundred dollars (\$900) per cited violation for one day, and thereafter will be issued a civil penalty in the amount of one hundred dollars (\$100) per day, per cited violation, until the violation is corrected.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(j)

Specific Purpose:

This section is adopted to specify that if a Home Care Organization licensee or designee reports to the Department that a violation has been corrected, then the civil penalty will cease on the day the Department receives written notification of the correction.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(j)(1)

Specific Purpose:

This section is adopted to specify that if the Department later determines that a violation was not corrected on the day the Department received notification of the correction, then civil penalties will continue to accrue without interruption from the original civil penalty assessment date.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(j)(2)

Specific Purpose:

This section is adopted to specify that if the Department can verify a violation was corrected prior to the date of notification, the civil penalty will cease as of the date of correction.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(k)

Specific Purpose:

This section is adopted to specify that the Department may inspect, if necessary, to confirm a violation has been corrected.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(l)

Specific Purpose:

This section is adopted to specify that if an immediate civil penalty is assessed and the violation is corrected on the same day, the civil penalty will still be assessed for that day.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(m)

Specific Purpose:

This section is adopted to specify that if the violation set forth in subdivisions (b)(2) or (g) of Section 130048 is a second violation of the same subdivision within a 12 month period, the Home Care Organization will be cited an immediate civil penalty of five hundred dollars (\$500) per cited violation.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(n)

Specific Purpose:

This section is adopted to specify that if the violation set forth in Subdivisions (b)(2) or (g) of Section 130048 is a third violation of the same subdivision within a 12 month period, the Home Care Organization will be cited an immediate civil penalty of seven hundred fifty dollars (\$750) per cited violation, and this may constitute cause for revocation of the Home Care Organization license.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(o)

Specific Purpose:

This section is adopted to specify that civil penalties are due upon receipt of the notice for payment, unless otherwise ordered by the Department. Civil penalties must be paid by check or money order, made payable to the Department, and mailed to the address indicated in the notice.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130052(p)

Specific Purpose:

This section is adopted to specify that the Department has the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay civil penalties.



Factual Basis:

This section is adopted and is necessary to specify the civil penalty process as authorized by Sections 1796.47, 1796.51, 1796.52, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130053(a)

Specific Purpose:

This section is adopted to specify that civil penalties will not be assessed upon a governmental entity, including a state or city, holding a Home Care Organization license.

Factual Basis:

This section is adopted and is necessary to specify who is exempt from civil penalties as authorized by Sections 1796.51, 1796.52, and 1796.63 of the Health and Safety Code.

Sections 130054(a), and (a)(1) through (a)(3)

Specific Purpose:

These sections are adopted to specify when a civil penalty of nine hundred dollars (\$900) per day will be assessed for operation of an unlicensed Home Care Organization, including: failure to submit a complete application and continuing to operate after receiving a Notice of Operation in Violation of Law; continued unlicensed operation after denial of the application; or continued unlicensed operation after expiration of a conditional license.

Factual Basis:

These sections are adopted and are necessary to specify the process for unlicensed civil penalties as authorized by Sections 1796.35, 1796.47, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130054(b), and (b)(1) through (b)(2)

Specific Purpose:

These sections are adopted to specify that civil penalties will cease the day the Department receives written notification from an unlicensed operator that unlicensed operation has ceased. These sections are also adopted to specify that an investigation will be made within five (5) working days to verify that the unlicensed

operation has ceased, and if not, civil penalties will continue to accrue without interruption from the date of the initial civil penalty assessment.

Factual Basis:

These sections are adopted and are necessary to specify the process for unlicensed civil penalties as authorized by Sections 1796.35, 1796.47, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130054(c)

Specific Purpose:

This section is adopted to specify that all civil penalties are due and payable upon receipt of the notice for payment, and civil penalties must be paid by check or money order, made payable to the Department, and mailed to the address indicated in the notice, pursuant to Subdivision (o) of Section 130052.

Factual Basis:

This section is adopted and is necessary to specify the process for unlicensed civil penalties as authorized by Sections 1796.35, 1796.47, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130054(d)

Specific Purpose:

This section is adopted to specify that the Department has the authority to file a claim in a court of competent jurisdiction or take other appropriate action for failure to pay civil penalties.

Factual Basis:

This section is adopted and is necessary to specify the process for unlicensed civil penalties as authorized by Sections 1796.35, 1796.47, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130054(e)

Specific Purpose:

This section is adopted to specify that payment of civil penalties or application for licensure in response to a citation does not permit the operation of a Home Care Organization without a license.

Factual Basis:

This section is adopted to specify the process for unlicensed civil penalties as authorized by Sections 1796.35, 1796.47, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130055(a) through (c)

Specific Purpose:

These sections are adopted to specify that an unlicensed Home Care Organization operator has the right to appeal a civil penalty assessment within ten (10) working days from the date of the notice. If the unlicensed Home Care Organization operation has not ceased, the nine hundred dollars (\$900) per day civil penalty will continue to accrue during the appeal process. These sections are also adopted to specify that the appeal review will be conducted by the Bureau Chief of the Home Care Services Bureau, and if the reviewer determines the civil penalty was not issued in accordance with applicable statutes and regulations, he or she has the authority to amend or dismiss the civil penalty assessment.

Factual Basis:

These sections are adopted and are necessary to specify the unlicensed administrative appeal process as authorized by Sections 1796.35, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130056(a)

Specific Purpose:

This section is adopted to specify that the Home Care Organization licensee may submit a written request for a formal review of any civil penalty or deficiency within fifteen (15) business days of the civil penalty or finding of deficiency, except an unlicensed appeal as set forth in Section 130055. This section is also adopted to specify the review process, timeframes, and that the review will be conducted by the Bureau Chief of the Home Care Services Bureau.

Factual Basis:

This section is adopted and is necessary to specify the civil penalty and deficiency appeal process as authorized by Sections 1796.55 and 1796.63 of the Health and Safety Code.

#### Section 130056(b)

##### Specific Purpose:

This section is adopted to specify that after exhausting the review specified in Subdivision (a) of Section 130056, the Home Care Organization licensee may further appeal the decision to the Branch Chief of the Continuing Care Branch within fifteen (15) business days of receipt of the Bureau Chief's decision. The Branch Chief's decision is considered final and concludes the Home Care Organization licensee's administrative appeal rights.

##### Factual Basis:

This section is adopted and is necessary to specify the civil penalty and deficiency appeal process as authorized by Sections 1796.55 and 1796.63 of the Health and Safety Code.

#### Sections 130057(a) through (c)

##### Specific Purpose:

These sections are adopted to specify that a Home Care Organization applicant or licensee may appeal the denial of an application by sending a written notice of appeal to the Department within fifteen (15) days of the denial. Upon receipt of an appeal, the Department will advise the applicant or licensee of the appeal procedure, and the proceedings to review the denial will be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

##### Factual Basis:

These sections are adopted and are necessary to specify the appeal process for application denials as authorized by Sections 1796.41, 1796.55, and 1796.63 of the Health and Safety Code.

#### Sections 130058(a) and (b)

##### Specific Purpose:

These sections are adopted to specify that any person may file a complaint against a Home Care Organization by reporting to the Department notice of an alleged violation of statutes or regulations. A complaint may be made orally or in writing, and the Department is prohibited from disclosing the identity of the complainant or any other person named in the complaint, unless the complainant authorizes the disclosure of those identities.

Factual Basis:

These sections are adopted and are necessary to specify the complaint process as authorized by Sections 1796.51, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130058(c)

Specific Purpose:

This section is adopted to specify that upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a Home Care Organization, the Department will make a preliminary review and initiate an investigation within ten calendar (10) days unless it is determined that the complaint is intended to harass a licensee or is without reasonable basis or unless the investigation would adversely affect the licensing investigation or an investigation by another agency. The complainant must be promptly informed of the Department's proposed course of action.

Factual Basis:

This section is adopted and is necessary to specify the complaint process as authorized by Sections 1796.51, 1796.52, and 1796.63 of the Health and Safety Code.

Sections 130058(c)(1), (c)(1)(A) and (B)

Specific Purpose:

These sections are adopted to specify that if a complaint alleges denial of a statutory right of access to the facility, the Department will review the complaint and promptly inform the complainant of the Department's proposed course of action.

Factual Basis:

These sections are adopted and are necessary to specify the complaint process as authorized by Sections 1796.51, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130058(d)

Specific Purpose:

This section is adopted to specify that the substance of a complaint will be provided to the Home Care Organization licensee no earlier than at the time of investigation. This section is also adopted to specify that unless specifically requested by the

complainant, the name of the complainant, the substance of the complaint provided to the Home Care Organization licensee, nor any copy of the complaint or any record published, released, or otherwise made available to the licensee can disclose the name of any person mentioned in the complaint except the name of the Department representative.

Factual Basis:

This section is adopted and is necessary to specify the complaint process as authorized by Sections 1796.51, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130058(e)

Specific Purpose:

This section is adopted to specify that if the Department determines that a complaint is intended to harass, is without a reasonable basis, or is unfounded, the complaint and any related documents will be marked confidential and will not be disclosed to the public.

Factual Basis:

This section is adopted and is necessary to specify the complaint process as authorized by Sections 1796.51, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130058(f)

Specific Purpose:

This section is adopted to specify that the Department is not required to act upon a request for inspection if the request does not allege a violation of an applicable statute or regulation by a Home Care Organization.

Factual Basis:

This section is adopted and is necessary to specify the complaint process as authorized by Sections 1796.51, 1796.52, and 1796.63 of the Health and Safety Code.

Sections 130062(a), and (a)(1) through (a)(1)(G)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization applicant or licensee must report to the Department, within ten (10) working days preceding the occurrence, any changes in organization, address, phone number, organizational responsibility, or business hours, as well as updated information pertaining to board of directors, separation dates of staff, volunteers, and Affiliated Home Care Aides, and any surety bond claims paid by the Home Care Organization or surety company, with specified information required.

Factual Basis:

These sections are adopted and are necessary to specify the reporting requirements as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.53, and 1796.63 of the Health and Safety Code.

Section 130062(a)(2)

Specific Purpose:

This section is adopted to specify that any change in location of a Home Care Organization must be reported to the Department within thirty (30) working days prior to the occurrence.

Factual Basis:

This section is adopted and is necessary to specify the reporting requirements as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.53, and 1796.63 of the Health and Safety Code.

Sections 130062(a)(3) and (a)(3)(A)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization applicant or licensee is required to send original criminal record statements to the Department for any individuals who hold a beneficial ownership interest of ten (10) percent or more, as well as any staff, volunteers, or Affiliated Home Care Aides, who have declared criminal history information. Copies of the criminal record statements must be kept in the Home Care Organization's administrative or personnel records.

Factual Basis:

These sections are adopted and are necessary to specify the reporting requirements as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.53, and 1796.63 of the Health and Safety Code.

Sections 130063(a) and (a)(1)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization applicant, licensee, or designee must be continuously present during business hours, and the Home Care Organization licensee must provide written authorization for a designee to perform administrative processes. Home Care Organizations that are corporations must attach board resolutions authorizing the delegation of any designees.

Factual Basis:

These sections are adopted and are necessary to specify the additional responsibilities as authorized by Sections 1796.37, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130063(b)

Specific Purpose:

This section is adopted to specify that a Home Care Organization licensee must provide evidence that every member or prospective member of the board of directors understands their legal duties and obligations, and that the Home Care Organization's operation is governed by laws enforced by the Department.

Factual Basis:

This section is adopted and is necessary to specify the additional responsibilities as authorized by Sections 1796.37, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130063(c)

Specific Purpose:

This section is adopted to specify that a Home Care Organization licensee is required to sign a statement acknowledging the requirement to report suspected abuse.



Factual Basis:

This section is adopted and is necessary to specify a Home Care Organization applicant's and licensee's additional responsibilities as authorized by Sections 1796.37, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130063(d)

Specific Purpose:

This section is adopted to specify that a Home Care Organization licensee is required to have all staff, volunteers, and Affiliated Home Care Aides, upon hire, sign a statement acknowledging their requirement to report suspected abuse.

Factual Basis:

This section is adopted and is necessary to specify a Home Care Organization applicant and licensee's additional responsibilities as authorized by Sections 1796.37, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130063(e)

Specific Purpose:

This section is adopted to specify that a Home Care Organization licensee must require all staff, volunteers, Affiliated Home Care Aides, and Affiliated Home Care Aide applicants to maintain a current mailing address with the Home Care Organization.

Factual Basis:

This section is adopted and is necessary to specify the additional responsibilities as authorized by Sections 1796.37, 1796.52, and 1796.63 of the Health and Safety Code.

Sections 130064(a) and (a)(1)

Specific Purpose:

These sections are adopted to specify that the licensee is accountable for the general supervision over the Home Care Organization and for the establishment of policies concerning its operation. If the licensee is a corporation or association, the governing body must be active and functioning in order to ensure such accountability.

Factual Basis:

These sections are adopted and are necessary to specify the accountability of the licensing governing body as authorized by Sections 1796.12 and 1796.63 of the Health and Safety Code.

Sections 130065(a), and (a)(1) through (a)(4)

Specific Purpose:

These sections are adopted to specify the information, including application documents, program documents, waivers, exceptions, and all signed criminal record statements, that must be complete, current, and maintained by the Home Care Organization.

Factual Basis:

These sections are adopted and are necessary to specify the operating and administrative record requirements as authorized by Sections 1796.36, 1796.42, 1796.52, and 1796.63 of the Health and Safety Code.

Sections 130065(b), and (b)(1) through (b)(1)(A)3.

Specific Purpose:

These sections are adopted to specify that the licensee and all staff, volunteers, and Affiliated Home Care Aides are required to report any suspected or known dependent adult, elder, or child abuse, and a copy of each abuse report must be maintained in the Home Care Organization's administrative file for three (3) years. Verification that the report was filed must also be maintained.

Factual Basis:

These sections are adopted and are necessary to specify the operating and administrative record requirements as authorized by Sections 1796.36, 1796.42, 1796.52, and 1796.63 of the Health and Safety Code.

Section 130065(c)

Specific Purpose:

This section is adopted to specify that all administrative records must be maintained in a secure location at the Home Care Organization's address of licensure.

Factual Basis:

This section is adopted and is necessary to specify the operating and administrative record requirements as authorized by Sections 1796.36, 1796.42, 1796.52, and 1796.63 of the Health and Safety Code.

Sections 130066(a) and (a)(1)

Specific Purpose:

These sections are adopted to specify that the Home Care Organization licensee is responsible for ensuring that personnel records are maintained and current for all licensees, staff, volunteers, and Affiliated Home Care Aides, and the licensee must organize personnel records utilizing standards provided by the Department or obtain approval for alternative personnel file organization.

Factual Basis:

These sections are adopted and are necessary to specify the personnel record requirements as authorized by Sections 1796.36, 1796.44, 1796.45, and 1796.63 of the Health and Safety Code.

Sections 130066(b), and (b)(1) through (b)(13)

Specific Purpose:

These sections are adopted to specify what information must be contained in each Affiliated Home Care Aide's personnel record, on a Personnel Record (HCS 501) form furnished by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the personnel record requirements as authorized by Sections 1796.36, 1796.44, 1796.45, and 1796.63 of the Health and Safety Code.

Sections 130066(c), and (c)(1) through (c)(7)(A)

Specific Purpose:

These sections are adopted to specify what additional documentation needs to be included in each Affiliated Home Care Aide's personnel record, including: documentation of a criminal record clearance, criminal record exemption, or transfer; all hard copy mail documents and communications received from the Department by the licensee; verification of training hours; a signed statement acknowledging the requirement to report suspected child, dependent adult, and elder abuse; all

communication pertaining to the Affiliated Home Care Aide's registration; tuberculosis examination documentation; and a signed Criminal Record Statement (LIC 508) form furnished by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the personnel record requirements as authorized by Sections 1796.36, 1796.44, 1796.45, and 1796.63 of the Health and Safety Code.

Sections 130066(d), and (d)(1) through (d)(11)

Specific Purpose:

These sections are adopted to specify what information must be contained in each staff and volunteer's personnel record, on a Personnel Record (HCS 501) form furnished by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the personnel record requirements as authorized by Sections 1796.36, 1796.44, 1796.45, and 1796.63 of the Health and Safety Code.

Sections 130066(e), and (e)(1) through (e)(4)

Specific Purpose:

These sections are adopted to specify what additional documentation must be contained in each staff and volunteer's personnel record, including: documentation of a criminal record clearance, criminal record exemption, or transfer; all hard copy mail documents and communications received from the Department by the licensee; a signed statement acknowledging the requirement to report suspected dependent adult and elder abuse; and a signed Criminal Record Statement (LIC 508) form furnished by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the personnel record requirements as authorized by Sections 1796.36, 1796.44, 1796.45, and 1796.63 of the Health and Safety Code.

Sections 130066(f), and (f)(1) through (f)(11)

Specific Purpose:

These sections are adopted to specify what information must be contained in each licensee's personnel record, on a Personnel Record (HCS 501) form furnished by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the personnel record requirements as authorized by Sections 1796.36, 1796.44, 1796.45, and 1796.63 of the Health and Safety Code.

Sections 130066(g), and (g)(1) through (g)(5)

Specific Purpose:

These sections are adopted to specify what additional documentation must be contained in each licensee's personnel record, including: documentation of a criminal record clearance, exemption, or transfer; all hard copy mail documents and communications received from the Department by the licensee; a signed statement acknowledging the requirement to report suspected dependent adult and elder abuse; certificate of completion of the Department's orientation; and a signed Criminal Record Statement (LIC 508) form furnished by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the personnel record requirements as authorized by Sections 1796.36, 1796.44, 1796.45, and 1796.63 of the Health and Safety Code.

Sections 130066(h) and (i)

Specific Purpose:

These sections are adopted to specify that all personnel records for licensees, staff, volunteers, and Affiliated Home Care Aides must be retained at least three (3) years following separation from employment or association with the Home Care Organization, and be maintained in a secure location at the Home Care Organization's address of licensure.

Factual Basis:

These sections are adopted and are necessary to specify the personnel record requirements as authorized by Sections 1796.36, 1796.44, 1796.45, and 1796.63 of the Health and Safety Code.

Sections 130067(a) and (b)

Specific Purpose:

These sections are adopted to specify that the five (5) hours of entry-level training required of Affiliated Home Care Aides must be completed after affiliation and hire date but prior to presence with clients, and the additional five (5) hours of annual training must be completed within the first year of the Affiliated Home Care Aide's hire date and every subsequent year thereafter that the Home Care Aide remains affiliated with the Home Care Organization.

Factual Basis:

These sections are adopted and are necessary to specify the Affiliated Home Care Aide training requirements as authorized by Sections 1796.44, 1796.47, and 1796.63 of the Health and Safety Code.

Section 130067(b)(1)

Specific Purpose:

This section is adopted to specify that when an Affiliated Home Care Aide leaves employment for less than one year and his or her annual training date lapses without the completion of the annual training, the annual training must be completed upon return and before presence with clients.

Factual Basis:

This section is adopted and is necessary to specify the Affiliated Home Care Aide training requirements as authorized by Sections 1796.44, 1796.47, and 1796.63 of the Health and Safety Code.

Section 130067(b)(2)

Specific Purpose:

This section is adopted to specify that when an Affiliated Home Care Aide leaves employment for one year or longer, the hire date will be considered a new hire date, and the required entry-level and annual trainings must be completed based upon the new hire date.

Factual Basis:

This section is adopted and is necessary to specify the Affiliated Home Care Aide training requirements as authorized by Sections 1796.44, 1796.47, and 1796.63 of the Health and Safety Code.

Sections 130067(b)(3) through (b)(3)(B)

Specific Purpose:

These sections are adopted to specify that an Affiliated Home Care Aide who transfers from one Home Care Organization to another will be deemed to have met the entry level training requirements if the Affiliated Home Care Aide can produce written documentation of successful completion that shows title, date completed, instructor's name and signature, and length of the training; however, the two-hour orientation training is not transferrable and must be completed at each Home Care Organization to which the Home Care Aide is affiliated.

Factual Basis:

These sections are adopted and are necessary to specify the Affiliated Home Care Aide training requirements as authorized by Sections 1796.44, 1796.47, and 1796.63 of the Health and Safety Code.

Section 130067(c) and (c)(1) through (c)(4)

Specific Purpose:

This section is adopted to specify that the emergency procedures training topic included in the three (3) hours of safety training may include topics such as natural disasters, evacuation of a client from home, contacting emergency services, and household emergencies.

Factual Basis:

This section is adopted and is necessary to specify the Affiliated Home Care Aide training requirements as authorized by Sections 1796.44(b)(2) and 1796.47 of the Health and Safety Code.

Sections 130067(d), and (d)(1) through (d)(2)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization licensee must maintain a verification log of training for each Affiliated Home Care Aide and

specifically what information must be contained in the training log, along with written documentation.

Factual Basis:

These sections are adopted and are necessary to specify the Affiliated Home Care Aide training requirements as authorized by Sections 1796.44, 1796.47, and 1796.63 of the Health and Safety Code.

Section 130068(a)

Specific Purpose:

This section is adopted to specify that all staff, volunteers, Affiliated Home Care Aides, and Home Care Aide applicants must inform the Home Care Organization in writing of any new mailing address within ten (10) days of the change.

Factual Basis:

This section is adopted and is necessary to specify the mailing address requirements as authorized by Sections 1796.31 and 1796.63 of the Health and Safety Code.

Sections 130070(a) and (b)

Specific Purpose:

These sections are adopted to specify that the Department will update the online Home Care Aide Registry to remove an Affiliated Home Care Aide's association from a Home Care Organization upon receiving written notification, and that when a Home Care Aide no longer has any affiliations with any Home Care Organizations, the Home Care Aide Registry will reflect the Registered Home Care Aide as an Independent Home Care Aide.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide Registry requirements in Sections 1796.24, 1796.28, 1796.29, and 1796.63 of the Health and Safety Code.

Sections 130071(a), and (a)(1) through (a)(1)(B)

Specific Purpose:

These sections are adopted to specify that a Home Care Aide's status will display "pending" on the Home Care Aide Registry when a Home Care Aide applicant



submits a completed registration application and the criminal record review is still in process, or when a Home Care Aide applicant has submitted an incomplete application.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide registration statuses as authorized by Sections 1796.12, 1796.19, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, and 1796.63 of the Health and Safety Code.

Sections 130071(a)(2) through(a)(2)(B)1.

Specific Purpose:

These sections are adopted to specify that a Home Care Aide's status will display "registered" on the Home Care Aide Registry when a Home Care Aide applicant has received a criminal record clearance, or when the Department has received subsequent notice of a non-violent conviction(s) for a Registered Home Care Aide and the Department has determined the person may remain on the Home Care Aide Registry until a final decision on a criminal record exemption is rendered.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide registration statuses as authorized by Sections 1796.12, 1796.19, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, and 1796.63 of the Health and Safety Code.

Sections 130071(a)(3) through (a)(3)(F)

Specific Purpose:

These sections are adopted to specify that a Home Care Aide's status will display "closed" on the Home Care Aide Registry when a Home Care Aide applicant fails to submit fingerprints for a criminal record review, fails to pay the registration fee, fails to provide all required application information within the required timeframe, is awaiting trial for a crime, requests termination of the criminal record exemption process, withdraws his or her application, or was placed on the Home Care Aide Registry in error.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide registration statuses as authorized by Sections 1796.12, 1796.19, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, and 1796.63 of the Health and Safety Code.

#### Sections 130071(a)(4) and (a)(4)(A)

##### Specific Purpose:

These sections are adopted to specify that a Home Care Aide's status will display "denied" on the Home Care Aide Registry for any of the reasons specified in Sections 1796.25 and 1796.26 of the Health and Safety Code, and an individual whose registration has been denied is not eligible to reapply for one year from the denial date.

##### Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide registration statuses as authorized by Sections 1796.12, 1796.19, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, and 1796.63 of the Health and Safety Code.

#### Section 130071(a)(5)

##### Specific Purpose:

This section is adopted to specify that a Home Care Aide's status will display "forfeited" on the Home Care Aide Registry for any of the reasons specified in Section 1796.26(b) of the Health and Safety Code.

##### Factual Basis:

This section is adopted and is necessary to specify the Home Care Aide registration statuses as authorized by Sections 1796.12, 1796.19, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, and 1796.63 of the Health and Safety Code.

#### Sections 130071(a)(6) and (a)(6)(A)

##### Specific Purpose:

These sections are adopted to specify that a Home Care Aide's status will display "revoked" on the Home Care Aide Registry for any of the reasons specified in subdivision (a)(1) of section 130091. An individual whose registration has been revoked is not eligible to reapply for two (2) years from the revocation date.

##### Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide registration statuses as authorized by Sections 1796.12, 1796.19, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, and 1796.63 of the Health and Safety Code.

#### Sections 130071(a)(7) and (a)(7)(A)

##### Specific Purpose:

These sections are adopted to specify that a Home Care Aide's status will display "registered-pending review" on the Home Care Aide Registry when a Registered Home Care Aide has a subsequent violent criminal history, subsequent felony conviction, administrative action under review by the Department, or has been issued an immediate exclusion order by the Department prohibiting the Registered Home Care Aide from employment pending administrative action proceedings. An individual in a "registered-pending review" status cannot provide home care services until a final determination is made.

##### Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide registration statuses as authorized by Sections 1796.12, 1796.19, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, and 1796.63 of the Health and Safety Code.

#### Section 130071(a)(8)

##### Specific Purpose:

This section is adopted to specify that a Home Care Aide's status will display "registered\*" on the Home Care Aide Registry when the Registered Home Care Aide has a criminal record exemption issued by the Department.

##### Factual Basis:

This section is adopted and is necessary to specify the Home Care Aide registration statuses as authorized by Sections 1796.12, 1796.19, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, and 1796.63 of the Health and Safety Code.

#### Section 130080(a)

##### Specific Purpose:

This section is adopted to specify the Department's nondiscrimination policy regarding Home Care Aide registration.

##### Factual Basis:

This section is adopted and is necessary to comply with the Department's nondiscrimination policy as authorized by Sections 1796.12, 1796.21, 1796.22, 1796.32, and 1796.63 of the Health and Safety Code.

Sections 130081(a), and (a)(1) through (a)(2)

Specific Purpose:

These sections are adopted to specify that any individual seeking to obtain Home Care Aide registration can do so by either submitting an application by mail to the Department along with a non-refundable application fee, paid by check or money order, or by submitting an online application with the non-refundable application fee paid by credit card.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide application requirements as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.23, 1796.25, and 1796.63 of the Health and Safety Code.

Sections 130081(b), and (b)(1) through (b)(2)(H)

Specific Purpose:

These sections are adopted to specify that the application mailed to the Department must contain the Application for Home Care Aide Registration (HCS 100) and Criminal Record Statement (LIC 508) forms as furnished by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide application requirements as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.23, 1796.25, and 1796.63 of the Health and Safety Code.

Sections 130081(c), and (c)(1) through (c)(9)

Specific Purpose:

This section is adopted to specify what application and criminal history information must be included if submitting an online Home Care Aide application.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Aide application requirements as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.23, 1796.25, and 1796.63 of the Health and Safety Code.

#### Sections 130082(a), and (a)(1) through (a)(2)

##### Specific Purpose:

These sections are adopted to specify that within thirty (30) days of receipt of a Home Care Aide application, the Department must give written notice to the Home Care Aide applicant and to all Home Care Organization(s) to which the Home Care Aide is affiliated if the application is deficient, and the notice will describe what items are outstanding and/or inadequate. The notice will require the information to be submitted within thirty (30) calendar days of the date of the notice. These sections also clarify that an incomplete application means insufficient or no payment was received, fingerprints were never submitted to the Department of Justice (DOJ), or all required information was not provided to the Department.

##### Factual Basis:

These sections are adopted and are necessary to specify the initial application review and registration issuance process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.23, 1796.25, and 1796.63 of the Health and Safety Code.

#### Sections 130082(b), and (b)(1) through (b)(2)

##### Specific Purpose:

These sections are adopted to specify that if a Home Care Aide applicant does not submit information as requested, the Department will cease processing the application, provided the Department has not already denied or taken action to deny the application, and the application will be considered withdrawn. The Department will provide written notice of the withdrawal to the Home Care Aide applicant and all Home Care Organization(s) to which the Home Care Aide is affiliated. The Home Care Aide applicant will need to submit a new application, including application fees, if registration is still desired.

##### Factual Basis:

These sections are adopted and are necessary to specify the initial application review and registration issuance process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.23, 1796.25, and 1796.63 of the Health and Safety Code.

#### Section 130082(c)

##### Specific Purpose:

This section is adopted to specify that if a Home Care Aide applicant receives a criminal record clearance, or the Department grants a criminal record clearance or exemption, the Department will provide written notice of registration approval to the

Home Care Aide applicant and all Home Care Organization(s) to which the Home Care Aide is affiliated.

Factual Basis:

This section is adopted and is necessary to specify the initial application review and registration issuance requirements as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.23, 1796.25, and 1796.63 of the Health and Safety Code.

Sections 130083(a), and (a)(1) through (a)(2)

Specific Purpose:

These sections are adopted to specify that a Home Care Aide applicant has the right to request to withdraw his or her application, the request must be in writing, and the application fee will be forfeited. The withdrawal request does not deprive the Department of its authority to institute or continue a proceeding against a Home Care Aide applicant upon any ground provided by law, unless the Department has consented in writing to the withdrawal. If the Department grants the withdrawal, no time is required to elapse before a new application may be submitted.

Factual Basis:

These sections are adopted and are necessary to specify the application withdrawal process as authorized by Sections 1796.19 and 1796.63 of the Health and Safety Code.

Sections 130083(b), and (b)(1) through (b)(4)

Specific Purpose:

These sections are adopted to specify that the Department may cease processing a Home Care Aide application and consider it withdrawn if the Home Care Aide applicant: requires a criminal record exemption and requests the Department to cease processing the exemption; is awaiting trial for a crime; has a warrant or pending court action for a crime other than a minor traffic infraction; or fails to respond to the criminal record exemption needed letter or incomplete application letter.

Factual Basis:

These sections are adopted and are necessary to specify the application withdrawal process as authorized by Sections 1796.19 and 1796.63 of the Health and Safety Code.

#### Sections 130083(c) and (d)

##### Specific Purpose:

These sections are adopted to specify that the Department will provide written notice of application withdrawal to the Home Care Aide applicant and all Home Care Organizations(s) to which the Home Care Aide applicant is affiliated. It will be the responsibility of the Home Care Aide applicant to submit a new application if registration is still desired.

##### Factual Basis:

These sections are adopted and are necessary to specify the application withdrawal process as authorized by Sections 1796.19 and 1796.63 of the Health and Safety Code.

#### Sections 130084(a), and (b) through (b)(1)

##### Specific Purpose:

These sections are adopted to specify that a nonrefundable Home Care Aide Registry application fee of thirty-five dollars (\$35) will be charged by the Department for the enforcement and administration of the Act and these regulations. These sections also specify that all fees are nonrefundable and, if a check has been dishonored, payment will only be accepted in the form of a money order.

##### Factual Basis:

These sections are adopted and are necessary to specify the application fee requirements as authorized by Sections 1796.12, 1796.23, 1796.47, 1796.48, and 1796.63 of the Health and Safety Code.

#### Sections 130090(a) through (c)

##### Specific Purpose:

These sections are adopted to specify that the Department will deny an application if it determines the Home Care Aide applicant is not in compliance with applicable laws. If denied, the Department will provide written notice of the denial to the Home Care Aide applicant and all Home Care Organization(s) to which the Home Care Aide is affiliated. The notification will include the reasons for the denial and inform the Home Care Aide applicant of his or her appeal rights. An individual may not reapply for Home Care Aide registration until one (1) year has elapsed from the date of application denial.

Factual Basis:

These sections are adopted and are necessary to specify the registration denial process as authorized by Sections 1796.25, 1796.26, and 1796.63 of the Health and Safety Code.

Sections 130091(a) and (a)(1)

Specific Purpose:

These sections are adopted to specify that the Department will revoke a Home Care Aide registration if it determines that the Registered Home Care Aide is not in compliance with applicable laws, requires a criminal record exemption and does not respond to or fails to cooperate with the criminal record exemption process, or is denied a criminal record exemption.

Factual Basis:

These sections are adopted and are necessary to specify the registration revocation process as authorized by Sections 1796.24, 1796.25, 1796.26, and 1796.63 of the Health and Safety Code.

Sections 130091(b), (b)(1), and (c)

Specific Purpose:

These sections are adopted to specify that if a Home Care Aide registration has been revoked, the Department will give written notice to the Registered Home Care Aide and all Home Care Organization(s) to which the Registered Home Care Aide is affiliated. The notification will inform the individual of the reasons for the revocation and will advise the individual of his or her appeal rights. An individual may not reapply for Home Care Aide registration until two (2) years have elapsed from the date of revocation.

Factual Basis:

These sections are adopted and are necessary to specify the registration revocation process as authorized by 1796.24, 1796.25, 1796.26, and 1796.63 of the Health and Safety Code.



Sections 130092(a), and (a)(1) through (a)(5)

Specific Purpose:

These sections are adopted to specify the conditions in which the Department may prohibit an individual from applying to be a Registered Home Care Aide, or remaining on the Home Care Aide Registry.

Factual Basis:

These sections are adopted and are necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

Section 130092(b)

Specific Purpose:

This section is adopted to specify that the Department may require the immediate removal of an individual pending a final decision on the matter when the action is necessary to protect clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

Sections 130092(b)(1) and (b)(2)

Specific Purpose:

These sections are adopted to specify that if the Department requires the immediate removal of an individual, the Department must serve the individual an order of immediate exclusion, which will notify the individual of the basis for the Department's action and the individual's right to a hearing. The Department will also provide copies of this order to all Home Care Organization(s) to which the individual is affiliated. The notice must be served either by personal service or registered mail, and the excluded person may file a written request for appeal within fifteen (15) calendar days after the Department serves the order. The Department's action will be final if the excluded person does not appeal the exclusion within the prescribed time.

Factual Basis:

These sections are adopted and are necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

Sections 130092(b)(2)(A) and (B)

Specific Purpose:

These sections are adopted to specify that within thirty (30) calendar days of receipt of an appeal, the Department must serve an accusation upon the excluded person; and within sixty (60) days of receipt of a notice of defense, the Department must begin a hearing on the accusation.

Factual Basis:

These sections are adopted and are necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

Section 130092(b)(3)

Specific Purpose:

This section is adopted to specify that an order of immediate exclusion may exclude an individual from a Home Care Organization, or the Home Care Aide Registry, or both. The exclusion order will remain in effect until the hearing is completed and the Director has made a final determination. The order of immediate exclusion will be vacated if the Director fails to make a final determination within sixty (60) days after the original hearing has been completed.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

Section 130092(c)

Specific Purpose:

This section is adopted to specify that an excluded person who files an appeal with the Department must provide his or her current mailing address with the written request and must notify the Department in writing of any change in mailing address within forty-eight (48) hours until the hearing has concluded.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized in Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

Section 130092(d)

Specific Purpose:

This section is adopted to specify that hearings will be conducted in accordance with specified Government Code sections, and the standard of proof will be a preponderance of the evidence with the burden of proof being on the Department.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

Sections 130092(e) and (e)(1)

Specific Purpose:

These sections are adopted to specify that the Department may institute or continue a disciplinary proceeding against an individual, or enter an order prohibiting any person from being a member of the board of directors, an executive director, an officer, a licensee, or from having contact with clients, prospective clients, or access to confidential client information even if the individual has withdrawn his or her Home Care Aide Registry application or employment application, has resigned, has changed duties, has been discharged, was not hired, or no longer has contact with clients of the Home Care Organization. A licensee's failure to comply with the Department's exclusion order will be grounds for disciplining the licensee.

Factual Basis:

These sections are adopted and are necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

#### Sections 130092(f), and (f)(1) through (f)(4)

##### Specific Purpose:

These sections are adopted to specify that if an excluded person appeals the exclusion order and the exclusion order is upheld through the administrative hearing process, the person will be prohibited for the remainder of his or her life from: serving as a member of the board of directors, an executive director, an officer, a volunteer or a licensee of a Home Care Organization; being employed at a Home Care Organization if the person has contact with clients, prospective clients, or confidential client information; applying to be or continuing to be a Registered Home Care Aide; or having contact with clients, prospective clients, or access to confidential client information of a Home Care Organization.

##### Factual Basis:

These sections are adopted and are necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

#### Section 130092(g)

##### Specific Purpose:

This section is adopted to specify that an excluded individual may petition for reinstatement one year after the effective date of the Department's decision and order upholding the exclusion. The Department will provide the excluded person with a copy of Section 11522 of the Government Code along with the decision and order.

##### Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

#### Section 130092(h)

##### Specific Purpose:

This section is adopted to specify that when the Department informs an individual of his or her right to appeal an exclusion order and the individual does not appeal, the excluded individual will be prohibited for the remainder of his or her life from serving as a member of the board of directors, an executive director, an officer, a volunteer or a licensee of a Home Care Organization; from being employed at a Home Care Organization if the person has contact with clients, prospective clients, or

confidential client information; from applying to be or continuing to be a Registered Home Care Aide; or from having contact with clients, prospective clients, or access to confidential client information of a Home Care Organization.

Factual Basis:

This section is adopted and is necessary to specify the exclusion process as authorized by Sections 1522, 1558, 1796.25, and 1796.63 of the Health and Safety Code.

Sections 130093(a) and (b)

Specific Purpose:

These sections are adopted and are necessary to specify that a Home Care Aide applicant or a Registered Home Care Aide may appeal an application denial or registration revocation by sending a written notice of appeal to the Department within fifteen (15) calendar days of the date of the Department's denial or revocation notice.

Factual Basis:

These sections are adopted and are necessary to specify the appeal process as authorized by Sections 1796.25 and 1796.63 of the Health and Safety Code.

Sections 130093(c) and (d)

Specific Purpose:

These sections are adopted to specify that, upon receipt of an appeal, the Department will advise the Home Care Aide applicant or Registered Home Care Aide in writing of the appeal procedure. These sections also specify that the proceedings will be conducted according to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

Factual Basis:

These sections are adopted and are necessary to specify the appeal process as authorized by Sections 1796.25 and 1796.63 of the Health and Safety Code.

## Sections 130094(a) and (b)

### Specific Purpose:

These sections are adopted to specify that each Home Care Aide applicant and Registered Home Care Aide has the right to bring to the attention of the Department any alleged misapplication or capricious enforcement of regulations or any differences in opinion between the Home Care Aide applicant or Registered Home Care Aide and the Department concerning the proper application of these regulations. These sections also specify how a review of the complaint will be conducted.

### Factual Basis:

These sections are adopted and are necessary to specify the right to challenge misapplication or capricious enforcement as authorized by Section 1796.63 of the Health and Safety Code.

## Section 130095(a)

### Specific Purpose:

This section is adopted to specify that if an application for Home Care Aide registration indicates or the Department determines that a Home Care Aide applicant was previously issued a Home Care Organization license, a license under specified chapters of the Health and Safety Code, TrustLine registration, Home Care Aide registration, or approval as a resource family, and the prior license, registration, or approval was revoked or rescinded within the preceding two (2) years, the Department will cease any further review of the Home Care Aide application until two (2) years have elapsed from the date of revocation or rescission.

### Factual Basis:

This section is adopted and is necessary to specify the cessation of application review process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.25, 1796.31, and 1796.63 of the Health and Safety Code.

## Section 130095(b)

### Specific Purpose:

This section is adopted to specify that if an application for Home Care Aide registration indicates or the Department determines that a Home Care Aide applicant previously was issued a certificate of approval by a foster family agency that was revoked by the Department within the preceding two (2) years, the Department will

cease any further review of the Home Care Aide application until two (2) years have elapsed from the date of the revocation.

Factual Basis:

This section is adopted and is necessary to specify the cessation of application review process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.25, 1796.31, and 1796.63 of the Health and Safety Code.

Section 130095(c)

Specific Purpose:

This section is adopted to specify that if an application for Home Care Aide registration indicates or the Department determines that a Home Care Aide applicant was excluded from a facility licensed by the Department, the Department will cease any further review of the Home Care Aide application unless the excluded individual has been reinstated by the Department.

Factual Basis:

This section is adopted and is necessary to specify the cessation of application review process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.25, 1796.31, and 1796.63 of the Health and Safety Code.

Section 130095(d)

Specific Purpose:

This section is adopted to specify that if an application for Home Care Aide registration indicates or the Department determines that a Home Care Aide applicant had previously applied for a license, registration, or approval as specified in Subdivision (a) of Section 130095, and the application was denied within the last year, the Department will cease any further review of the Home Care Aide application until one (1) year has elapsed from the date of the prior denial. In those circumstances in which denials were appealed and upheld at an administrative hearing, review of the Home Care Aide application will cease for one (1) year from the date of the decision and order of the Department.

Factual Basis:

This section is adopted and is necessary to specify the cessation of application review process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.25, 1796.31, and 1796.63 of the Health and Safety Code.

#### Section 130095(e)

##### Specific Purpose:

This section is adopted to specify that if an application for Home Care Aide registration indicates or the Department determines that a Home Care Aide applicant had previously applied for a certificate of approval with a foster family agency and the Department ordered the foster family agency to deny the application pursuant to Subdivision (d) of Section 1534 of the Health and Safety Code, the Department will cease any further review of the application.

##### Factual Basis:

This section is adopted and is necessary to specify the cessation of application review process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.25, 1796.31, and 1796.63 of the Health and Safety Code.

#### Section 130095(e)(1) through (2)

##### Specific Purpose:

This section is adopted to specify that in cases where the Home Care Aide applicant petitioned for a hearing, the Department will cease further review of the Home Care Aide application until one (1) year has elapsed from the effective date of the decision and order upholding the denial. In cases where the Department informed the Home Care Aide applicant of his or her right to petition for a hearing and the Home Care Aide applicant did not petition for a hearing, the Department will cease further review of the Home Care Aide application until one (1) year has elapsed from the date of the denial and the right to petition for a hearing.

##### Factual Basis:

This section is adopted and is necessary to specify the cessation of application review process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.25, 1796.31, and 1796.63 of the Health and Safety Code.

#### Section 130095(e)(3) and (f)

##### Specific Purpose:

These sections are adopted to specify that the Department may continue to review the Home Care Aide application if it has determined that the reasons for the previous denial of the application specified in Subdivision (e) of Section 130095 were due to circumstances and conditions that have been corrected or no longer exist.

Cessation of the application review pursuant to Section 130095 does not constitute denial of the application.



Factual Basis:

These sections are adopted and are necessary to specify the cessation of application review process as authorized by Sections 1796.12, 1796.19, 1796.22, 1796.25, 1796.31, and 1796.63 of the Health and Safety Code.

Sections 130100(a), (b) and (b)(1) through (b)(4)

Specific Purpose:

These sections are adopted to specify that the Department will conduct a criminal record review of: Home Care Organization owner(s); individuals having a 10 percent or greater controlling ownership interest in a Home Care Organization and the chief executive officer; staff persons, volunteers, and employees who have contact with clients, prospective clients, or confidential client information; and Registered Home Care Aides and Home Care Aide applicants. These sections also specify that the Department has the authority to approve or deny a Home Care Organization license, Home Care Aide registration or employment, or volunteer work in a Home Care Organization based on the results of the criminal record review.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

Sections 130100(c), and (c)(1) through (c)(3)

Specific Purpose:

These sections are adopted to specify which individuals are exempt from the requirement to submit fingerprints and under what conditions. Nothing prevents a Home Care Organization applicant or licensee from requiring an independent criminal record clearance of any individual associated with the Home Care Organization.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

#### Section 130100(d)

##### Specific Purpose:

This section is adopted to specify that prior to, and subsequent to as applicable, the Department issuing a Home Care Organization license or an individual having contact with clients or confidential client information of a Home Care Organization, any person who is subject to criminal record review must first obtain a criminal record clearance or criminal record exemption.

##### Factual Basis:

This section is adopted and is necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

#### Section 130100(e)

##### Specific Purpose:

This section is adopted to specify that prior to a Home Care Aide becoming registered, the individual must first obtain a criminal record clearance or criminal record exemption.

##### Factual Basis:

This section is adopted and is necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

#### Sections 130100(f), and (f)(1) through (f)(2)

##### Specific Purpose:

These sections are adopted to specify that any individual who is subject to criminal record review must be fingerprinted with LiveScan technology, and the fingerprints must be submitted to the DOJ by an approved fingerprinting entity. The individual must also complete and sign a Criminal Record Statement (LIC 508) and declare whether he or she has been convicted of a crime other than a minor traffic violation. The individual must provide information regarding any conviction(s). Marijuana related offenses covered by specified marijuana reform legislation need not be disclosed.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

Sections 130100(g), and (g)(1) through (g)(3)

Specific Purpose:

These sections are adopted to specify that all individuals subject to a criminal record review must request and be approved a criminal record clearance or criminal record exemption, or request and be approved a transfer of a criminal record clearance or criminal record exemption, prior to having contact with clients, prospective clients, or having access to confidential information.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

Sections 130100(h), and (h)(1) through (h)(3)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization applicant, licensee, or designee may request the transfer of a criminal record clearance that was issued for another Home Care Organization, a facility licensed by the Department, the TrustLine registry, the Home Care Aide Registry, a certified family home, resource family home, or for administrator certification by submitting a signed clearance transfer request, along with proof of valid photo identification and any other documentation required by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

Section 130100(i)

Specific Purpose:

This section is adopted to specify that the Department will hold criminal record clearances in its active files for a minimum of three (3) years after an individual is no

longer employed by a Home Care Organization or is no longer on the Home Care Aide Registry, in order to facilitate a transfer request.

Factual Basis:

This section is adopted and is necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

Sections 130100(j), and (j)(1) through (j)(5)

Specific Purpose:

These sections are adopted to specify the actions the Department will take if the criminal record information of an individual discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation and an exemption has not been granted. These actions include, but are not limited to, denial of application, revocation of license or registration, and/or exclusion from Home Care Organizations or the Home Care Aide Registry.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

Sections 130100(k) and (k)(1)

Specific Purpose:

These sections are adopted to specify that the Home Care Organization licensee must maintain documentation of criminal record clearances and criminal record exemptions of all staff persons, volunteers, employees, and Affiliated Home Care Aides in the individual's personnel file. The documentation must be available for inspection by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

#### Sections 130100(l) and (l)(1)

##### Specific Purpose:

These sections are adopted to specify that the Department will seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or the affected individual, and the Department will proceed as if this criminal record information was provided by the DOJ.

##### Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

#### Sections 130100(m), and (m)(1) through (m)(3)(B)

##### Specific Purpose:

These sections are adopted to specify that if the Department receives information that an individual has been arrested for a specified crime(s), the Department may notify the individual that an investigation will be conducted into the facts underlying the arrest. Home Care Organization applicants and Home Care Aide applicants may not provide home care services or have access to confidential client information pending the investigation. The Department will notify the individual in writing once the investigation is completed and a determination is made. Based on the findings of the investigation, the Department may approve or deny an application, or may allow a Registered Home Care Aide to remain on the Home Care Aide Registry or revoke the registration.

##### Factual Basis:

These sections are adopted and are necessary to specify the criminal record review process as authorized by Sections 1796.23, 1796.33, 1796.37, 1796.43, and 1796.63 of the Health and Safety Code.

#### Sections 130110(a), and (a)(1) through (a)(5)

##### Specific Purpose:

These sections are adopted to specify that the Department will notify a Home Care Organization licensee to act immediately to remove or bar a person from providing home care services or having contact with clients, prospective clients, or access to confidential client information pending a criminal record exemption decision by the Department if the person has been convicted of or is awaiting trial for a sex offense

against a minor, has been convicted of a felony, has been convicted of other specified crimes, or has otherwise been ordered removed by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(b)

Specific Purpose:

This section is adopted to specify that after a review of the criminal record information, the Department may grant a criminal record exemption if the individual presents substantial and convincing evidence that he or she has been rehabilitated and is of such good character as to justify Home Care Aide registration, Home Care Organization licensure, or employment or volunteer work with a Home Care Organization.

Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(b)(1) through (b)(3)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization applicant, Home Care Organization licensee, Home Care Aide applicant, or Registered Home Care Aide may request a criminal record exemption in writing, for himself or herself. These sections also specify that the Home Care Organization applicant or licensee may request a criminal record exemption in writing for an individual who is associated to the Home Care Organization, and if the Home Care Organization applicant or licensee chooses not to request a criminal record exemption for an individual, then the individual may request a criminal record exemption in writing, on his or her own behalf.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

### Section 130110(c)

#### Specific Purpose:

This section is adopted to specify that the Department will notify the Home Care Organization applicant or licensee and the affected individual, in separate notices, that the affected individual has criminal conviction(s) and needs to obtain a criminal record exemption. To request an exemption, the Home Care Organization applicant or licensee, Home Care Aide applicant or Registered Home Care Aide, or the affected individual if requesting an exemption on his or her own behalf, must submit information to the Department that indicates the individual has been rehabilitated and is of such good character as to justify granting an exemption.

#### Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

### Sections 130110(c)(1) through (c)(3)(D)

#### Specific Purpose:

These sections are adopted to specify that the notice sent by the Department to the affected individual will include a list of the conviction(s) that the individual must address in an exemption request, as well as any other criminal record information provided to the Department by the DOJ as a result of the fingerprint submission. The notice will also specify what information must be submitted to request a criminal record exemption and that the information must be submitted to the Department within forty-five (45) days of the date of the notice. These sections also specify that individuals who submit a criminal record exemption request must cooperate with the Department in processing the request. If requested information is not submitted within forty-five (45) days, the Department may cease processing the exemption request and close the case for individuals who are staff, volunteers, or employees of the Home Care Organization, or the Department may deny the exemption request for Home Care Organization applicants or Home Care Aide applicants.

#### Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(d), and (d)(1) through (d)(9)

Specific Purpose:

These sections are adopted to specify some of the factors the Department will consider as evidence of good character and rehabilitation in evaluating a request for a criminal record exemption.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(e), and (e)(1) through (e)(2)

Specific Purpose:

These sections are adopted to specify that the Department will also consider the type of clients who are to be provided services and the individual's age at the time the crime was committed when evaluating a request for a criminal record exemption.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(f), (f)(1) through (f)(2)

Specific Purpose:

These sections are adopted to specify that the Department may deny a criminal record exemption request if the Home Care Organization applicant, licensee, and/or affected individual fails to provide documents requested by the Department or fails to cooperate with the Department.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.



#### Sections 130110(g) and (g)(1)

##### Specific Purpose:

These sections are adopted to specify that the reasons for any criminal record exemption denial will be in writing and kept by the Department. Criminal record exemption denial notices will specify the reason the exemption was denied.

##### Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

#### Sections 130110(h), and (h)(1) through (h)(2)

##### Specific Purpose:

These sections are adopted to specify the Department's authority to grant a criminal record exemption that places conditions on the scope of the Home Care Organization's license, an individual's status as a Registered Home Care Aide, or the scope of employment or volunteer work in a licensed Home Care Organization. Other than maintaining the Registry, the Department will have no oversight responsibility regarding Registered Home Care Aides. These sections also specify that if a Home Care Aide applicant has been denied a criminal record exemption prior to December 1, 2016, he or she may reapply once, immediately to be registered. Thereafter, if an applicant's criminal record exemption is again denied, the applicant will be excluded for two (2) years following the exemption denial.

##### Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

#### Sections 130110(i), and (i)(1) through (i)(2)(A)

These sections are adopted to specify under what circumstances it will be considered conclusive evidence that an individual is not of such good character as to justify issuance of a criminal record exemption, including making a knowingly false or misleading statement and/or the individual is on formal, supervised probation, or parole.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(j), and (j)(1) through (j)(7)

Specific Purpose:

These sections are adopted to specify that the Department will consider granting a criminal record exemption if the individual's criminal record meets all the applicable criteria as specified, and the individual provides the Department with substantial and convincing evidence of present good character as specified in Subdivision (b) of Section 130110.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(k)

Specific Purpose:

This section is adopted to specify that it is a rebuttable presumption that an individual is not of such good character as to justify the issuance of a criminal record exemption if the individual fails to meet the requirements specified in Subdivisions (j)(1) through (j)(7) of Section 130110.

Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(l)

Specific Purpose:

This section is adopted to specify that the Department will not grant a criminal record exemption if the individual has a conviction for any offense authorized by Subdivisions (g)(1)(A) or (B) of Section 1522 of the Health and Safety Code.

Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(m), and (m)(1) through (m)(4)

Specific Purpose:

These sections are adopted to specify the criteria upon which the Department will consider granting a simplified criminal record exemption to an individual. The individual must not have a pattern of criminal activity or conviction(s) arising from more than a single incident of criminal conduct, and the individual's conviction(s) must be a non-violent misdemeanor(s) that does not pose a risk of harm to an individual. Five (5) consecutive years since the date of conviction or since completion of the most recent period of incarceration, or supervised probation must also have elapse before a simplified exemption may be granted.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(n)

Specific Purpose:

This section is adopted to specify that the Department may require an individual who is otherwise eligible for a simplified criminal record exemption to go through a standard exemption process if it determines such action will help protect the health and safety of clients.

Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(o), and (o)(1) through (o)(4)

Specific Purpose:

These sections are adopted to specify the actions the Department will take if it denies a criminal record exemption, including denial of a Home Care Organization

license or Home Care Aide registration, revocation of a Home Care Organization license or Home Care Aide registration, and/or exclusion of a licensee, Home Care Aide, staff person, volunteer, or employee from a Home Care Organization and the Home Care Aide Registry.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(p), and (p)(1) through (p)(4)

Specific Purpose:

These sections are adopted to specify that if a criminal record exemption request has been denied, the individual will be excluded for a period of two (2) years unless the individual has been convicted of a crime for which no criminal record exemption may be granted, in which case the individual will be excluded for the remainder of his or her life. These sections also specify that the Department will cease review of any subsequent criminal record exemption requests until two years have elapsed from the date of the exemption denial or the effective date of a decision and order upholding the denial, or two (2) years from the effective date of a denied petition for reinstatement or reduction in penalty. An exclusion order based solely up upon a denied criminal record exemption will remain in effect unless either a petition for reinstatement or a criminal record exemption is granted.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(q)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization applicant, licensee, or designee may request that a criminal record exemption for himself or herself and/or Home Care Aide applicants, Registered Home Care Aides, employees, and volunteers, be transferred to his/her Home Care Organization for an exemption that was previously issued for another Home Care Organization, a facility licensed by the Department, the TrustLine Registry, the Home Care Aide Registry, a certified family home, a resource family home, or for administrator certification. These sections also specify the documents required for requesting a criminal record exemption transfer.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(q)(1) through (q)(4)

Specific Purpose:

These sections are adopted to specify the forms furnished by the Department that a Home Care Organization applicant, licensee, or designee must use to request a criminal record exemption transfer.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(r), and (r)(1) through (r)(6)

Specific Purpose:

These sections are adopted to specify that the Department may transfer a criminal record exemption for a Home Care Aide applicant following submission of the Home Care Aide Registry application. These sections also specify the factors the Department may consider in determining whether or not to approve a criminal record exemption transfer.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(s)

Specific Purpose:

This section is adopted to specify that if the Department denies an individual's request to transfer a criminal record exemption, the Department must provide written notification to the individual and the Home Care Organization applicant or licensee that states the Department's decision and informs the individual of his or her right to an administrative hearing to contest the Department's decision.

Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(t) and (t)(1) through (t)(3)

Specific Purpose:

This section is adopted to specify that the Department may rescind a criminal record exemption if it determines the exemption was granted in error, the exemption does not meet current exemption laws or regulations, or the conviction for which the exemption was granted subsequently becomes non-exemptible by law.

Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(u) and (u)(1) through (u)(4)

Specific Purpose:

This section is adopted to specify that the Department may rescind a criminal record exemption if it obtains evidence showing that the individual engaged in conduct that is inconsistent with the good character requirement of a criminal record exemption or violates any condition placed on the criminal record exemption, including but not limited to: violating licensing laws or regulations; any conduct by the individual that indicates the individual may pose a risk to the health and safety of any individual who is or may be a client; nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department; or the individual is convicted of a subsequent crime.

Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130110(v), and (v)(1) through (v)(2)

Specific Purpose:

These sections are adopted to specify that if the Department rescinds a criminal record exemption, the Department will notify: the affected individual and the Home Care Organization licensee if the individual is an Affiliated Home Care Aide, staff person, employee, or volunteer. The Department will also initiate an administrative action.

Factual Basis:

These sections are adopted and are necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Section 130110(w)

Specific Purpose:

This section is adopted to specify that if the Department learns that an individual with a criminal record clearance or criminal record exemption has been convicted of a subsequent crime, the Department may immediately initiate an administrative action to protect the health and safety of clients.

Factual Basis:

This section is adopted and is necessary to specify the criminal record exemption process as authorized by Sections 1522, 1558, 1796.23, 1796.24, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130200(a), and (a)(1) through (a)(2)

Specific Purpose:

These sections are adopted to specify that individuals or entities desiring to renew a Home Care Organization license must file a renewal application on forms furnished by the Department. These sections also specify that when a Home Care Organization licensee does not file a renewal application, the license will expire two (2) years following the date of issuance, and a Department representative will visit the location within sixty (60) days following the expatriation to ensure the Home Care Organization is no longer operating.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Organization license renewal process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130200(b)

Specific Purpose:

This section is adopted to specify that a Home Care Organization licensee must sign the renewal application acknowledging he or she has read and understands the statutes and regulations pertaining to Home Care Organizations prior to renewal of the license being granted.

Factual Basis:

This section is adopted and is necessary to specify the Home Care Organization license renewal process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130200(c)

Specific Purpose:

This section is adopted to specify what needs to be submitted with the Home Care Organization renewal application on forms furnished by the Department.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Organization licensure renewal process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130200(c)(1), (c)(1)(A) through (M)

Specific Purpose:

These sections are adopted to specify the information required to be provided on the Application for a Home Care Organization License (HCS 200), as part of the license renewal application.



Factual Basis:

These sections are adopted and are necessary to specify the Home Care Organization license renewal process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130200(c)(2), (c)(2)(A) through (K)

Specific Purpose:

These sections are adopted to specify the information required to be provided on the Home Care Organization's Personnel Report (LIC 500), as part of the license renewal application.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Organization license renewal process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130200(c)(3)

Specific Purpose:

This section is adopted to specify that if any changes have been made since licensure, additional specified forms must be submitted to the Department as part of the license renewal application.

Factual Basis:

This section is adopted and is necessary to specify the Home Care Organization license renewal process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130200(d), and (d)(1) through (d)(2)

Specific Purpose:

These sections are adopted to specify additional supporting documents that must be submitted with a license renewal application if updates have been made since licensure, as well as the renewal application processing fee.

Factual Basis:

These sections are adopted and are necessary to specify the Home Care Organization license renewal process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130200(e)

Specific Purpose:

This section is adopted to specify that a Home Care Organization must submit original documents to the Department, unless otherwise specified.

Factual Basis:

This section is adopted and is necessary to specify the Home Care Organization license renewal process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130201(a), and (a)(1) through (a)(2)(A)

Specific Purpose:

These sections are adopted to specify that within thirty (30) calendar days of receipt of a license renewal application package, the Department will give written notice to the Home Care Organization that either the application is complete and the Department will begin its review, or the application is deficient, and the notice will describe what documents are outstanding, inadequate, or both. If the Home Care Organization renewal applicant does not submit the required information within thirty (30) calendar days, the application may be denied unless the Department has received and approved a withdrawal request.

Factual Basis:

These sections are adopted and are necessary to specify the renewal application review process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130201(b)

Specific Purpose:

This section is adopted to specify that the renewal application review by the Department does not constitute approval of the renewal application.

Factual Basis:

This section is adopted and is necessary to specify the renewal application review process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130201(c), and (c)(1) through (c)(3)(A)

Specific Purpose:

These sections are adopted to specify that within thirty (30) calendar days of receipt of a complete Home Care Organization renewal application and completion of its review, the Department will give written notice to the Home Care Organization licensee that the renewal application has either been approved, denied, or the Department has ceased review of the application. If the renewal application is denied, the written notice will inform the Home Care Organization licensee of the reasons for the denial and will advise the licensee of the right to appeal the decision. If the Department ceases processing the renewal application, the written notice will indicate when the Home Care Organization may reapply for licensure. These sections also specify the circumstances and conditions in which the Department may continue to review a previously denied renewal application.

Factual Basis:

These sections are adopted and are necessary to specify the renewal application review process as authorized by Sections 1796.37, 1796.40, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130202(a), and (a)(1) through (a)(2)

Specific Purpose:

These sections are adopted to specify that a Home Care Organization licensee has the right to request to withdraw a renewal application, and the withdrawal request must be in writing. These sections also specify that a renewal application withdrawal request does not deprive the Department of its authority to institute or continue a proceeding against a Home Care Organization licensee upon any ground permitted by law, unless it has consented in writing to the withdrawal. If the Department grants the withdrawal, no time will be required to elapse before a new application may be submitted.

Factual Basis:

These sections are adopted and are necessary to specify the renewal application withdrawal process as authorized by Sections 1796.37, 1796.38, 1796.47, 1796.49, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130203(a), and (a)(1) through (a)(1)(B)

Specific Purpose:

These sections are adopted to specify that the Department will deny an application for Home Care Organization license renewal if it determines that the Home Care Organization licensee is not in compliance with applicable laws and regulations, including failure to pay an outstanding civil penalty assessment or failure to cooperate with the Department during the renewal application process.

Factual Basis:

These sections are adopted and are necessary to specify the renewal application denial process as authorized by Sections 1796.37, 1796.38, 1796.40, 1796.41, 1796.49, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130203(b), and (b)(1) and (b)(2)

Specific Purpose:

These sections are adopted to specify that if a license renewal application is denied, the Department will mail written notification of the denial to the Home Care Organization licensee, informing the licensee of the reasons for the denial and the right to appeal. These sections also specify that a denied renewal application does not deprive the Department of its authority to institute or continue a proceeding against the Home Care Organization licensee upon any ground provided by law, unless it has consented in writing to such an agreement.

Factual Basis:

These sections are adopted and are necessary to specify the renewal application denial process as authorized by Sections 1796.37, 1796.38, 1796.40, 1796.41, 1796.49, 1796.55, and 1796.63 of the Health and Safety Code.

Section 130203(c)

Specific Purpose:

This section is adopted to specify that notwithstanding an appeal action, if a Home Care Organization licensee is denied renewal, it will be considered unlicensed and may not operate pending adoption by the Department of a decision on the denial action.

Factual Basis:

This section is adopted and is necessary to specify the renewal application denial process as authorized by Sections 1796.37, 1796.38, 1796.40, 1796.41, 1796.49, 1796.55, and 1796.63 of the Health and Safety Code.

Sections 130210(a), and (a)(1) through (a)(2)

Specific Purpose:

These sections are adopted to specify that any individual seeking to renew a Home Care Aide registration must file a renewal application, either by mail or online, and must include a non-refundable application fee. If the renewal application is submitted by mail, the fee must be paid by check or money order. If the renewal application is submitted online, the fee must be paid by credit card.

Factual Basis:

These sections are adopted and are necessary to specify the registration renewal application requirements as authorized by Sections 1796.12, 1796.25, 1796.31, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130210(b), and (b)(1) through (b)(1)(C)

Specific Purpose:

These sections are adopted to specify the information that must be included on the Home Care Aide Registration Renewal (HCS 101) form for renewal applications mailed to the Department.

Factual Basis:

These sections are adopted and are necessary to specify the registration renewal application requirements as authorized by Sections 1796.12, 1796.25, 1796.31, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130210(c), and (c)(1) and through (c)(2)

Specific Purpose:

These sections are adopted to specify that the Home Care Aide registration renewal application submitted online must contain the name and personnel identification number of the Home Care Aide applicant filing the application.

Factual Basis:

These sections are adopted and are necessary to specify the registration renewal application requirements as authorized by Sections 1796.12, 1796.25, 1796.31, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130210(d), and (d)(1) through (d)(3)

Specific Purpose:

These sections are adopted to specify that the Home Care Aide renewal applicant may update his or her residence and mailing address, telephone numbers, and/or email address on the renewal application submitted by mail or online.

Factual Basis:

These sections are adopted and are necessary to specify the registration renewal application requirements as authorized by Sections 1796.12, 1796.25, 1796.31, 1796.48, and 1796.63 of the Health and Safety Code.

Sections 130211(a), and (a)(1) through (a)(2)

Specific Purpose:

These sections are adopted to specify that if a Registered Home Care Aide does not submit a complete renewal application and fee before his or her registration expiration date, the Department will cease processing the renewal application and the registration will be forfeited, unless the Department has revoked or has taken action to revoke the registration. The Department will provide written notification of the forfeiture to the individual and all Home Care Organizations to which the individual is affiliated. It will be the responsibility of the individual to submit a new application, including application fees, if registration is desired and the individual is otherwise eligible to apply.

Factual Basis:

These sections are adopted and are necessary to specify the renewal application review and continuance of registration requirements as authorized by Sections 1796.25, 1796.26, 1796.31, 1796.37, 1796.48, and 1796.63 of the Health and Safety Code.

## Section 130211(b)

### Specific Purpose:

This section is adopted to specify that if the Department approves the renewal application, the Home Care Aide registration status will remain the same and the Home Care Aide Registry will be updated to reflect the new expiration date.

### Factual Basis:

This section is adopted and is necessary to specify the renewal application review and continuance of registration requirements as authorized by Sections 1796.25, 1796.26, 1796.31, 1796.37, 1796.48, and 1796.63 of the Health and Safety Code.

#### b. Identification of Documents Upon Which Department Is Relying

Assembly Bill (AB) 1217 (Chapter 790, Statutes of 2013), Home Care Services Consumer Protection Act.

Senate Bill (SB) 855 (Chapter 29, Sections 30 through 63, Statutes of 2014).

Written Directives, Version Five, released October 1, 2017 by the Home Care Services Bureau.

#### c. Local Mandate Statement

These emergency regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

#### d. Statement of Alternatives Considered

In developing the regulatory action, the Department considered the following alternatives with the following results:

There have been no alternatives presented to the Department in consideration of these legislatively mandated regulations.

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than

the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e. Statement of Significant Adverse Economic Impact on Business

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Due to Home Care Organization (HCO) licenses being issued on a biennial basis (every two (2) years), the Department does not yet have a baseline established to determine how many HCOs have not applied for or will not renew their license for purely economic reasons.

f. Economic Impact Assessment [Government Code section 11346.3(b)]

In accordance with Government Code section 11346.3(b), the Department has made the following assessments regarding the proposed regulations. This analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law.

The proposed regulations implement the Act to ensure the Department aides and protects the health and safety of vulnerable individuals by regulating a previously unregulated industry. Therefore, they will ensure that the home care services industry has a clear understanding of the responsibilities of applying for Home Care Organization (HCO) licensure, operating requirements, and requirements for biennial visits. Additionally, the regulations provide guidelines and standards for Home Care Aides (HCAs) who are affiliated to HCOs or who choose to apply independently. The regulations provide significant health and safety protections for a vulnerable population by requiring HCAs to be background checked and, if they are employed by a HCO, require tuberculosis screening and annual training.

***Creation or Elimination of Jobs Within the State of California***

The Department has made an initial determination that the proposed action will not have a significant statewide impact on job creation or elimination in the State. The requirement of HCO licensees, staff, volunteers, and HCAs to be background checked may result in some applicants being disqualified for approval or registration due to their criminal record. However, as these requirements have been in effect by legislatively authorized Written Directives for approximately two (2) years, the impact will be minimal.



### ***Creation of New or Elimination of Existing Businesses Within the State of California***

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses in the State of California. Businesses who participate as or within a Home Care Organization may be subjected to various fees for licensure and penalties described in the legislatively mandated regulations. There may be an impact on small businesses as a result of filing these regulations. Currently, the Department has received approximately 1,700 applications for Home Care Organization licensure, and approximately 1,500 of those have become licensed. At this time the number of unlicensed providers is unknown. The financial hardship this may impose on small Home Care Organization businesses may result in some business sales, consolidations, or closures.

### ***Expansion of Businesses Within the State of California***

The adoption of the proposed regulations will not result in the expansion of businesses in the State of California. The businesses that may be affected are Home Care Organizations that arrange for services for clients in a client's own home. Due to Home Care Organization (HCO) licenses being issued on a biennial basis [every two (2) years], the Department does not yet have a baseline to determine how many HCOs will expand, sell, consolidate, or close their businesses.

### ***Benefits of the Regulations***

These emergency regulations promote consumer protection for elderly and disabled individuals who hire private aides to come into their homes and provide assistance with activities of daily living. The regulations establish safe care alternatives in a previously unregulated home care industry, which will allow elderly and disabled individuals to continue to live independently in their homes, the least restrictive environment, and active in their local communities. These regulations aid and protect the health and safety of vulnerable individuals by providing the home care services industry and the public with a clear understanding of the responsibilities of applying for Home Care Organization (HCO) licensure, operating requirements, and requirements for biennial visits. Additionally, these regulations provide guidelines and standards for Home Care Aides (HCAs) who are affiliated to HCOs or who choose to apply independently. The regulations provide health and safety protections for a vulnerable population by requiring HCAs to be background-checked and, if they are employed by a HCO, require tuberculosis screening and annual safety training. Additionally, unlike other licensure categories, HCOs must renew their licenses and HCAs must renew their registrations every two years. Transparency is achieved by the Department listing all HCOs on a public website displaying license number, HCO name, license status, licensee name, physical address, telephone number, and in the near future the website will display all inspection reports, citations, complaints, and other site visit information. HCAs are

listed on a public online registry website. Individuals who wish to review a HCA's status can enter the HCA's name and registration number on the public Home Care Aide Registry and receive information on the HCA's registration status.

Worker safety has increased because the law now requires that affiliated HCAs are covered under State worker's compensation laws. HCOs are required to hold a ten thousand dollar (\$10,000) surety bond to protect clients from financial loss resulting from a dishonest or fraudulent act. All HCO and HCA applicants are covered under the Department's nondiscrimination policy and may apply for licensure or registration regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry. These regulations will have no impact on the State's environment.

### ***Documents Relied Upon***

Assembly Bill (AB) 1217 (Chapter 790, Statutes of 2013), Home Care Services Consumer Protection Act.

Senate Bill (SB) 855 (Chapter 29, Sections 30 through 63, Statutes of 2014).

Written Directives, Version Five, released October 1, 2017 by the Home Care Services Bureau.

#### **g. Benefits Anticipated from Regulatory Action**

These emergency regulations promote consumer protection for elderly and disabled individuals who hire private aides to come into their homes and provide assistance with activities of daily living. The regulations establish safe care alternatives in a previously unregulated home care industry, which will allow elderly and disabled individuals to continue to live independently in their homes, the least restrictive environment, and active in their local communities. These regulations aid and protect the health and safety of vulnerable individuals by providing the home care services industry and the public with a clear understanding of the responsibilities of applying for Home Care Organization (HCO) licensure, operating requirements, and requirements for biennial visits. Additionally, these regulations provide guidelines and standards for Home Care Aides (HCAs) who are affiliated to HCOs or who choose to apply independently. The regulations provide health and safety protections for a vulnerable population by requiring HCAs to be background-checked and, if they are employed by a HCO, require tuberculosis screening and annual safety training. Additionally, unlike other licensure categories, HCOs must renew their licenses and HCAs must renew their registrations every two years.

Transparency is achieved by the Department listing all HCOs on a public website displaying license number, HCO name, license status, licensee name, physical address, telephone number, and in the near future the website will display all inspection reports, citations, complaints, and other site visit information. HCAs are listed on a public online registry website. Individuals who wish to review a HCA's

status can enter the HCA's name and registration number on the public Home Care Aide Registry and receive information on the HCA's registration status.

Worker safety has increased because the law now requires that affiliated HCAs are covered under State worker's compensation laws. HCOs are required to hold a ten thousand dollar (\$10,000) surety bond to protect clients from financial loss resulting from a dishonest or fraudulent act. All HCO and HCA applicants are covered under the Department's nondiscrimination policy and may apply for licensure or registration regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry. These regulations will have no impact on the State's environment.

h. Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.